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S. 268, THE NATIONAL PARKS OVERFLIGHTS ACT OF 1997

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HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

JULY 31, 1997

Printed for the use of the Committee on Commerce, Science, and Transportation



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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

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S. 268, THE NATIONAL PARKS OVERFLIGHTS ACT OF 1997

THURSDAY, JULY 31, 1997

**U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.**

The committee met, pursuant to notice, at 9:30 a.m., in room SR-253, Russell Senate Office Building, Hon. John McCain (Chairman of the committee) presiding.

Staff members assigned to this hearing: Ann Hodges, senior counsel; and Samuel E. Whitehorn, minority senior counsel.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good morning. Today the committee will receive testimony on the National Parks Overflights Act of 1997, Senate bill 268, which I introduced on February 5 of this year. This legislation intends to promote air safety and protect natural quiet in our National Parks by providing a process for developing air tour flight management rules.

I want to thank our witnesses for taking the time to appear today. Senator Akaka, in particular, has been actively involved in this issue for years.

I also want to acknowledge that even with three panels, we were unable to accommodate all the requests to testify. I thank my colleagues on the committee for their understanding on this point. I want to emphasize that the record is open to all those who wish to submit testimony.

Visitors to our National Parks, whether by air or through the entrance gate, deserve two things: safety and a quality visitor experience. In evaluating this legislation and other National Park overflight policies, we would do well to keep our attention fixed on these two goals.

First, air safety. We are all aware of the incidents involving air tour park overflight aircraft over the years. The number of air tour flights across the country is on the rise. As additional aircraft operate in concentrated airspace, the risk increases. We have a responsibility to manage park airspace to provide for the safe and orderly flow of traffic for the protection of park visitors.

Second, protecting visitor experience. Natural quiet is a highly valued resource for visitors to our National Parks. As flights increase, so does noise which can impair the opportunity for park visitors to enjoy the natural quiet they seek and deserve.

The 1997 Overflights Act seeks to promote both safety and natural quiet by providing a fair and balanced process for developing flight management prescriptions. Under this legislation, as under the 1987 Overflights Act that dealt principally with the Grand Canyon, the Secretary of the Interior would develop air management recommendations. These proposals would include flight-free zones, minimum altitudes, curfews and other restrictions, depending upon what is necessary to meet the particular needs of that park and its visitors.

The FAA Administrator would then develop a plan based upon these recommendations, changing them only for safety purposes.

We will hear today about some of the parks that have emerging overflight problems. This bill calls on the Interior Secretary to prioritize his efforts to address first those parks with the most significant threats.

Finally, the bill would require the Interior Secretary and the FAA Administrator to propose methods that encourage the use of quiet aircraft over our parks. I have always believed that quiet aircraft technology holds the most promise for accommodating everybody's interest in this debate.

If the Grand Canyon experience provides us with any lesson, it is that we cannot wait until natural quiet has been lost before we take steps to prevent the impairment of natural resources. Addressing problems proactively is more efficient and more responsible.

While the 1997 Act is modeled after the 1987 legislation addressing the Grand Canyon, we have received some excellent suggestions on how to improve our approach, and I look forward to hearing more today.

Let me conclude by saying, overflights are a legitimate and important means of experiencing National Parks. They are particularly important for providing access to the elderly and those with disabilities. It is not my intention or desire to kill the air tour industry. However, I hope we can all agree that the rights of any group of park visitors must be reconciled and balanced with the rights and values of others.

This bill seeks to promote safety, protect vital park resources, including natural quiet, and provide for the continued enjoyment of our parks by visitors in a fair, balanced, but decisive manner.

I will insert into the record here statements of other members who could not be in attendance.

[The prepared statement of Senators McCain, Hollings, Inouye, Ford, and Wyden follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

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This bill seeks to promote safety, protect vital park resources, including "natural quiet," and provide for the continued enjoyment of our parks by visitors in a fair, balanced, but a decisive manner. I look forward to hearing the comments and suggestions of the witnesses.

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM
SOUTH CAROLINA

Mr. Chairman, travel and tourism is one of our country's greatest assets. People visit our national parks, our national seashores, and our historic cities from all over the world. Those visitors come by car, by bus, and by plane. They experience our nation's resources sometimes on foot, sometimes from a boat, and sometimes from an airplane operated by an air tour operator.

Noise over our national parks appears to be an increasing concern. The Administration is aware of the problem, and last year the President directed the Secretaries of Transportation and the Interior to work together. Air tour operators provide a valuable service—a service that must be provided in a reasonable manner.

Two bills have been introduced in the Senate on the parks overflight issue. Senator McCain introduced S. 268, the National Park Overflights Act, on February 5, 1997. The bill would authorize the Secretary of the Interior to develop recommendations to address flights over National Parks, and require the Administrator of the Federal Aviation Administration (FAA) to develop plans to implement the Secretary of Transportation's recommendations. A second bill, S. 291, the National Parks Airspace Management Act of 1997, was introduced by Senator Akaka (and cosponsored by Senators Inouye and Frist) on February 7, 1997. S. 291 would specify the authority of the National Park Service and the FAA in developing park overflight policies.

Furthermore, in response to the President's directive, Secretary of Transportation Slater and Secretary of the Interior Babbitt formed a National Parks Overflights Working group with the specific task of recommending regulations within 100 days to reduce or prevent the adverse impacts of air tour operations over the National Parks. The end of those 100 days is drawing close. The group has met several times and another meeting is scheduled for August 4-5 in Denver.

I know that Senator Bryan has a strong interest in this issue, and along with Senator McCain, participated in field hearings concerning the Grand Canyon last October. The FAA since the October hearing has issued rules limiting flights over the Canyon in an effort to minimize noise impacts. Further changes are also being considered, but will be part of the overall package of rules that the working group will address.

We should let that process continue before we consider other avenues. I do not want to impede the progress of the working group, but prefer to let the affected parties continue to negotiate a reasonable compromise.

PREPARED STATEMENT OF HON. WENDELL H. FORD, U.S. SENATOR FROM KENTUCKY

Mr. Chairman, as you know, the United States is graced with magnificent National Parks like the Grand Canyon in your state and Mammoth Cave in Kentucky. The stewardship of those national resources is left to the National Park Service. The FAA is the steward of our the of our nation's navigable air space. At times, the use of our air space may conflict with the natural quiet over our parks, and neighborhoods.

In 1990, we passed legislation that required our airlines to phase out noisy jets. We also pushed hard for a large airport improvement program, in part to fund noise mitigation efforts. Both sides gave a little, and a workable solution was reached. We did not, however, cede authority to regulate noise to the local airports, or cede authority to regulate flight paths to local citizens.

Today, we are confronted with a different type of noise problem—noise from air tour operations. Technology may ultimately help, but it will take more than that. The Administration set up the National Parks Overflights Working Group, with a 100 day target to come up with a solution. The group was asked to develop regulations designed to reduce or prevent the adverse effects of commercial sightseeing flights over our National Parks.

Cooperation and compromise are needed. Pending legislation, I suspect, is serving as a prod to forge a consensus. However, if we are going to mark up legislation, revisions will be needed. The FAA is responsible for our nation's airspace and must work with users to ensure that aviation users act reasonably in their use of that air space. We will need to consider carefully the safety and economic impacts of giving air traffic control authority to another agency, or community.

I know that there will be a meeting in Denver next week of the working group. I understand the working group is making progress and I want to review the recommendations of the group. I am hopeful that a reasonable compromise can be reached.

PREPARED STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

I thank the Chairman, Senator McCain, for holding this important hearing about what our national policy should be with regard to scenic tourism overflights at America's National Parks.

The Chairman may know that at Oregon's Crater Lake National Park we currently have no companies set up to provide scenic aerial tours of that Park.

However, if an operator decided tomorrow to set up a scenic helicopter tour business operating out of Diamond Lake or Fort Klamath, the Park Service would have nothing to say about it because the Park Service has no authority to control helicopter or airplane tours at National Parks.

Mr. Chairman, Oregonians and all Americans have entrusted the National Park Service to preserve the awesome kinds of experiences that we all share when we visit those places. The Park Service has done a good job of allowing appropriate commercial activity while keeping first and foremost the protection of the natural qualities that led us to designate these parks in the first place.

The Federal Aviation Administration and the National Park Service have been working, at times together and at times in opposition, for more than four years on an appropriate resolution of this issue. We simply are not getting any younger, and it is clear to me that the time has come for Congress to step in and solve the prob-

lem. It is basic, to this Senator, that the National Park Service have appropriate authority to control the commercial use of the airspace over our National Parks.

Mr. Chairman, I want you to know that I stand ready to work with you and the members of the Committee on this important issue.

PREPARED STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII

Mr. Chairman, I would like to thank you for scheduling this important hearing. Overflights of our nation's scenic national park areas have increased exponentially over the last several years.

On the one hand, aircraft provide a means of getting a wondrous perspective on the natural features that first caused us to preserve these park areas. Aircraft also allow those who could not otherwise make a backcountry trek the opportunity to experience the wilderness areas of our parks. In addition, air tours often bring important tourist dollars into the economies of the towns surrounding our parks.

On the other hand, these parks were in many instances established because of their wilderness qualities and the natural habitats they provide. Aircraft buzzing overhead obviously create not only some negative aesthetic and auditory impacts, but potentially impact the animal and other natural populations sought to be protected within park boundaries.

I am glad to see my Hawaii colleagues Senator Akaka and Congresswoman Mink here today, and I am also looking forward to hearing the testimony of the other witnesses. There are important and valid concerns on both sides of this issue, and I am hopeful that your comments today will help us all move forward.

The CHAIRMAN. I look forward to hearing the comments and suggestions of the witnesses. And before we do, I would ask Senator Stevens if he has any additional comments.

**STATEMENT OF HON. TED STEVENS, U.S. SENATOR
FROM ALASKA**

Senator STEVENS. Mr. Chairman, I want to thank you for holding this hearing. And I would state at the outset that I have spent a lot of my lifetime working on National Parks, and was the person who drafted the original Mission 66 concept, where Eisenhower extended really a tremendous effort to improve our parks.

But I hope that you appreciate Alaska's situation. And I appreciate the fact that you have scheduled an Alaskan to appear here today. I do not want to duplicate what he is going to say, but I do want to make, I hope, a significant point here. We are remote from Washington, DC. My home is closer to Beijing than it is to this city. We are a long way away. We are one-fifth the size of the United States. With respect to travel time, our cities and villages are as remote from our capital in Juneau as we are now from Alaska itself. We are an area of great distances.

We have 16 of the 296 National Park units in our State—just 16—but over 65 percent of all the acreage that is in National Parks is in our State. Now, as I read the bill—and I do appreciate your goal, and I think you and Senator Cochran deserve a great deal of credit for what you are doing in terms of the park areas that are in the south 48. But the result of the bill, if it is not carefully corrected, as far as my State, is that its result really is that whoever is the manager of the land is the manager of the lifestyle of the State.

The reality in Alaska is that control over airspace is control over access, and that is control over our lifestyle. Seventy-five percent of our communities can be reached only by air. Most of them are surrounded by Federal conservation lands, including National Parks. I know the efforts that were put in this bill, and I have

worked with this committee very carefully to address the problems of aircraft noise and their impact on population centers.

The reported problem in the Grand Canyon National Park really stands out in that regard, and we are ready to work with you in any way to help solve those problems. Once, Mr. Chairman, at my request, Senator McClellan took the whole appropriations committee to Alaska, and we flew them around Alaska in Otters—twin-engine airplanes, as you know—so they would get some idea of the distance involved in crossing our National Parks in Alaska. In other States, surface transportation provides an alternate means of access. And in other States, National Parks are significantly smaller, so that the time to travel over those parks can be very limited.

We do not have options that other States have, is what I am saying, for other means of access. Air is our means of access. And if we are not careful, this bill could transfer to the Federal land managers the right to determine whether a person had even the opportunity to get to his or her own property or to the State's property or the property owned by our Alaska Native villages.

Now, I know the Grand Canyon, as I said, is a difficult problem. In fiscal year 1996, the Grand Canyon National Park had 4.5 million visitors. Its acreage is 1.2 million acres. Wrangell-St. Elias Park in Alaska has 13 million acres. It had 31,000 visitors. Many of those were repeat visitors, and those are visitor days for us.

Now, the National Parks Conservation Association, in a pre-filed statement here, lists Wrangell-St. Elias as one of the parks threatened by aircraft noise. Thirteen million acres threatened by aircraft noise?

Now, we have to travel long distances, and I know of no way for me to get around my State without flying over several National Parks in one visit to my State. Now, I think that the scope of the bill is correct, in terms of the areas where there are great population concentrations really attacking our National Parks. And I hope that we can work out the problems of our State.

I want to point out that in 1980, we passed the Alaska National Interest Lands Conservation Act. Section 1110 of that Act says, "Notwithstanding any other provision of this Act or other law, the Secretary shall permit on conservation system units, National Recreation Areas and National Conservation Areas"—and that includes Wildlife Refuges, National Parks, Wild and Scenic Rivers, all public lands designated as wilderness study—"the use of snow machines, motorboats and airplanes for traditional activities, for travel to and from villages and home sites."

Now, the Alaska bush pilot is really our State hero. The person who carries people and goods to remote areas in Alaska cannot do his or her job without the protection of section 1110, Mr. Chairman.

Now, I do not want to prolong this, but I do hope that we will understand that this form of access, which is guaranteed by existing law, ought not to be modified now by transferring to a land manager the right to make the decision as to whether that guarantee to our people will be kept. That is a guarantee of a right to access to all Alaskans to property, whether it is State, Native or common law private property, and it is a way of life.

You are going to hear today from a person who is involved in the commercial aspect of this. But the mechanics of this bill are very difficult for us. And I do not think that the guarantee that was made in 1980 can survive unless there is substantial protection for Alaska.

Mr. Chairman, the preservation of the quiet way of life, the way one can get that is to come live in Alaska. People have got to understand that. If you want quiet, I can drop you off in a place and guarantee you there is not another human being within a 100-mile radius from where you are. And you will not be disturbed when a low-flying bush plane comes by. As a matter of fact, you will get out of your tent and wave, to make sure they know you are still alive.

We cannot be restricted by new methods of quiet aircraft. Because of our small population, we attract the hand-me-downs of yesterday. When you come to Alaska, you will fly in old planes. But they are planes maintained by people who live with those airplanes. And I think we have the best flying record in the United States, if not the world, for the number of planes per capita.

Now, I urge you to let us work with you on the bill and, at the same time, find a way to carve out Alaska as a place where it is recognized that this lifestyle will continue and that we cannot have a situation where this bill turns into one-size-fits-all States. It cannot work in Alaska as drafted, Mr. Chairman. And I hope you will allow me to work with you so it will work in our State, and it will recognize some unique areas where there are legitimate restrictions on access to the park lands themselves, but not in terms of crossing those park lands.

Thank you very much.

The CHAIRMAN. Thank you very much, Senator Stevens.

I want to assure you that I am very aware of the unique aspects of Alaska, and we look forward to working with you to satisfy those unique concerns.

Senator Bryan.

STATEMENT OF HON. RICHARD H. BRYAN, U.S. SENATOR FROM NEVADA

Senator BRYAN. Mr. Chairman, I would like to preface my comments by acknowledging your strong leadership on this issue and to commend you for your commitment to protect the valuable natural resources of our National Park system, particularly the efforts that you have made with respect to the Grand Canyon National Park.

No one can deny that the Grand Canyon National Park has benefited enormously from the leadership that you have exhibited and the legislation that you sponsored back in 1987. Despite rapid growth and the demand for sightseeing tours of the Grand Canyon, the impact of aircraft noise on ground visitors to the Canyon has decreased, and the safety of the flights has increased.

In 1995, for example, there were only 26 noise complaints filed out of more than 5 million visitors, 1 complaint for nearly 200,000 visitors. And there is no evidence that these complaints were directed against air tour operators.

While we are still struggling a decade later to find the best way to accomplish the goals of your 1987 legislation, your leadership and interest in preserving the visitor experience to the Grand Canyon National Park is appreciated by the millions of visitors to the Park each year.

Mr. Chairman, you know better than anyone else the difficulty in reaching agreement on complicated, contentious issues such as this. The emotions run high on all sides. And the competing interests are difficult to balance. In terms of the Grand Canyon, we are still debating a number of the most basic issues. For example, the 1987 legislation requires the, "substantial restoration of natural quiet," a promise undefined in the legislation and open to a wide variety of interpretations. The legislation before the committee today also lacks a definition of natural quiet or substantial restoration.

In addition, the bill's requirement that the Secretary of the Interior submit a plan related to the commercial tours for every National Park in the Nation within 120 days of enactment would be nearly impossible to meet, and will severely limit any public participation in devising this plan. The legislation could result in a complex system of conflicting and different requirements for aviation throughout the Nation.

The proposed system of identifying and addressing perceived problems with commercial overflights is both unfair to the many individuals who wish to experience our National Parks through air tours and, in my judgment, in the present form, is unworkable.

In addition, I am afraid the legislation before the committee today fails what I consider an essential test—that aviation safety is the highest priority, and the FAA retain full jurisdiction over our Nation's airspace. Under the bill, it is the Secretary of the Interior that devises the airspace management plans, and the FAA is left only with two alternatives—either to rubber stamp or approve the Secretary of the Interior's plans or somehow prove that these plans would adversely affect aviation safety. I am afraid that the structure of the proposed relationship between the FAA and the Interior puts the FAA at a severe disadvantage to Interior in its efforts to protect air safety.

Another concern I have with this legislation is less practical and more philosophical. All would agree that our National Parks are national treasures, belonging to all of our citizens. And while quiet and a sense of solitude are certainly resources that many park visitors are seeking, it is not the only resource. Most of our National Parks possess some unique natural feature which led to their being designated as National Parks in the first place.

The Grand Canyon Park, for example, is famous for its spectacular vistas of the Canyon. Air tours have been a part of the Grand Canyon experience ever since it was designated as a National Park. Millions of Americans view the Canyon through air tours, bus tours, or by private automobiles. The primary interest of these visitors is simply to see the Canyon. Other visitors, fewer in number, hike the backcountry, seeking the solitude.

As a National Park owned by all Americans, our goal needs to be to find a balanced approach which protects both types of visitor experience. Giving air tours free rein to fly wherever and whenever

they wish is not acceptable. But neither is denying access to the Park to visitors whose only or preferred choice of visitor experience is through air tours.

Despite my concerns with this legislation, Mr. Chairman, I share your concern for this issue. As air tours become more popular, we need to be certain that the appropriate regulatory structure exists, both to ensure safety and to protect the visitor experience on the ground.

As you know, Mr. Chairman, an Aviation Rulemaking Advisory Council, ARAC, working group is currently examining the issue of commercial overflights of National Parks. The nine-member working group includes representation from the industry, the environmental community and tribal governments. By all reports, the working group is making significant progress toward developing a consensus recommendation, and recommendations to the FAA and Congress related to the park overflight issue. I urge the committee to let that process run its course before attempting to press forward with legislation which may ultimately hinder the process of finding a reasonable compromise which can satisfy all of our interests and protecting our National Parks.

And let me just indicate, Mr. Chairman, I look forward to working with you and trying to resolve these issues. I know of your commitment and your interest, and I share that. I experienced the vistas of the Grand Canyon 49 years ago, as a Boy Scout from Las Vegas, coming up the Kaibab Plateau to the Shivits Indian Reservation. It was a spectacular experience then. It is a spectacular experience now. And we want to preserve that experience for generations to come.

The CHAIRMAN. Well, I thank you, Senator Bryan.

One of the continuing sources of irritation to me is when I have been in Japan, and all the Japanese think that the Grand Canyon is part of the State of Nevada, because they fly to California and Nevada, and overfly the Grand Canyon, and then back to Las Vegas. It is a terrible irritation to me.

Senator Burns.

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. Thank you, Mr. Chairman. And thank you for holding these hearings.

I will not take long. I have a statement that I want to submit for the record.

The CHAIRMAN. Without objection.

Senator BURNS. And I want to associate myself with the words of the Senator from Alaska. If it is quiet that folks are looking for, you can come to Montana. We have a lot of places where the silence is deafening. We have not experienced some of the, let us say, activities that have been experienced over the Grand Canyon or over in Hawaii.

But we have the crown jewels, probably the two greatest National Parks, one in our State and one borders our State, with some of it in Montana: Yellowstone and Glacier. Now, the access into Yellowstone is fairly good. You can access that. But in Glacier, you are very much limited there, not only from a standpoint of the to-

pography of the Park, which is very rugged—and the only way it can be seen is either by hiking or by air.

We only have two operators in Glacier Park, and I do not know of very many at all over at Yellowstone. And we have a voluntary action that was taken between the Park Service and the operators in the State of Montana, maintaining altitudes that they thought were consistent to wildlife habitat and to the silence and to the integrity of the Park.

This bill—I think we need to work on it a little bit, because it is a classic example of Washington, should this pass in this final form, where one size fits all. And that is just not the case. We have certain areas across this country where this would not apply and should not apply.

So, I would associate my words with Senator Stevens as to this bill. We will work on it. And we will get it to where it alleviates some of the problems and protects the integrities of those areas that have been impacted most in some way or other.

It is kind of like maybe the overflight does not hurt near as much, maybe we just have too much gear in the air, so to speak. But I fear that this bill is going to need a little more work before it finds support from this Senator.

So, with that, I will just submit my statement. And thank you, Mr. Chairman, for holding this hearing. There is no doubt about it that those areas that have been impacted the most do need to take some action. And I would want to work on that with the Chairman.

Thank you.

[The prepared statement of Senator Burns follows:]

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Thank you Mr. Chairman. The issue we consider today is well-intentioned—unfortunately, it is not the proper way to address the problem faced by a minority of our nation's parks.

In fact, by subjecting the entire National Park system to the requirements of the bills we are considering today will have a severe impact on a number of small businesses as well as the services those small businesses provide to park officials.

Let me give you a couple of things to consider. Montanans have access to two of our nation's largest and grandest parks: Yellowstone National Park and Glacier National Park. Yellowstone is largely known for its thermal activity, free-roaming bison, and, of course, Yellowstone Lake.

Glacier, on the other hand is known for its tall rugged peaks, numerous hiking trails, and scenic vistas. If any of my colleagues have the opportunity and have not already traveled through Glacier National Park, I recommend you go. While there, you may want to hike a couple of miles, get away from the road traffic, and see the real Glacier National Park. Unfortunately, 99% of the Park's visitors don't take advantage of this opportunity and stay within a mile of the road.

But there are those who would like to and due to physical restraints or age, are unable to see the park's interior. These are the people that this legislation will effect most.

This legislation's roots come from problems associated with Hawaii's National Parks and the Grand Canyon. Both regions have considerable air tour operations. But Glacier National Park can only boast 2 tour operators in the bordering town of West Glacier.

And as far as Glacier National Park is concerned, this legislation is unnecessary. The tour operators already comply with a voluntary agreement between park service and tour operators to recognize a ceiling of 2,000 feet.

These operators provide a service otherwise not available. They provide park access to families, elderly and the handicapped. Unlike the thousands of visitors on the ground, they leave no impact on the park and they leave no garbage.

Yesterday, I was contacted by Jerry Mumsick of West Glacier, Montana. Jerry is one of the air tour operators near Glacier National Park. He had to cancel all the tours for the day due to adverse weather. In fact, Jerry's seasonal business is shut down during much of the year due to adverse weather conditions.

Considering all the factors that may ground Jerry's business, he estimated he is in the air only 3.5 hours per day annually. Last year he introduced less than 2,000 people to Glacier National Park.

Jerry and tour operators like him, provide additional and very necessary services—recently Jerry participated in the maintenance of upgrading Glacier's famous Chalets by flying in supplies. He provides the park with an onsite resource to assist in search and rescue efforts.

Jerry is part of the park and has a very compatible relationship with Glacier Park officials.

The administration has indicated that they consider tour operators as "external threats" to a national park's environment. But when the administration begins looking at ways to close down accessibility to our nation's parks, that is when they become the threat.

And the threat doesn't stop with our national parks. The administration's threat is against current landing strips and tour operations over all federal lands. Montana's general aviation community shares this concern.

By giving the Department of Interior the opportunity to regulate the airspace over federal lands, we are restricting our park's visitors. If we give the administration an inch on this matter, I'm concerned they're going to take a nautical mile.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Burns.
Senator Gorton.

STATEMENT OF HON. SLADE GORTON, U.S. SENATOR FROM WASHINGTON

Senator GORTON. Mr. Chairman, I could not possibly improve on the statement from the Senator from Nevada on the complex and various considerations that go into dealing with legislation of this sort. I must say, in looking at the bill, I find it to be unbalanced in the direction of one interest—a highly legitimate interest, but only one interest—with respect to National Parks, to allow far too much discretion to a Secretary of the Interior, whom, as the Senator from Alaska already outlined, is not necessarily sympathetic with either his State or other States.

There seems to be no room for the States themselves to contribute to this process. I find it incredible that we have something in here that says that the recommendations may exempt non-commercial general aviation, military and other public operations from the proposed flight-free zones and the like. I do not know whether this legislation is going to permit the Secretary of the Interior to say a jet cannot fly over from Chicago to Los Angeles at 40,000 feet. And I certainly do not propose to let the Secretary of the Interior make any such decision.

And to say that even the military is going to be subject to the views of the Secretary of the Interior seems to me to be inappropriate.

Is there room, is there a desirability to see to it that there are times and places in which tours should be banned or low-flying aircraft should be banned? Yes, there is.

Should this entirely be a decision of the managers of the National Parks and the Secretary of the Interior, with the most minor of exceptions? No, I do not think it should be.

I congratulate the Senator from Nevada. I think he has set out the considerations that ought to go into a determination on this bill. And I just want to say that I agree with him.

[The prepared statement of Senator Gorton follows:]

PREPARED STATEMENT OF HON. SLADE GORTON, U.S. SENATOR FROM WASHINGTON

I would like to thank Chairman McCain for holding this hearing to consider the legislation that he recently introduced to promote safety and quiet for air tours in and around national parks. I would also recognize our distinguished group of witnesses, and thank them for taking the time to share with us their knowledge and insights on this important issue.

National parks are popular destinations, with 271 million visitors expected this year, including those who will visit the three national parks in Washington state, Mount Rainier, North Cascades, and Olympic. As a recent survey found, just about everyone who visits a national park has an enjoyable time. We want to see that this continues.

Our challenge is to develop a framework that will provide a reasonable level of natural quiet, and the opportunity for people to safely enjoy the scenic beauty of national parks from the air. Air tours of national parks have proven to be popular. Last year, for example, 800,000 people, nearly one-fifth of the total visitors to the Grand Canyon National Park, chose to view the canyon by plane or helicopter.

I would note that there are positive actions underway to address noise concerns. The aviation industry has been developing quieter aircraft for air tours. I would encourage these efforts to continue, and for all air tour operators to use quieter aircraft as soon as possible.

I also look forward to receiving the recommendations of the National Parks Overflights Working Group. The group's members represent various perspectives, and I anticipate that the recommendations they develop on how to manage air tours over national parks will reflect a consensus, and prove helpful.

I am sure we can find a reasonable and workable balance so that people visiting national parks can enjoy the natural quiet, and the unique perspective that an air tour provides. I look forward to hearing the comments of our witnesses on how this can be achieved.

The CHAIRMAN. We would like the congressional witnesses to come forward. I thank you for your patience, and we look forward to hearing from you.

I want to apologize to the other panel. I appreciate their patience as well.

Senator Akaka, Senator Allard—I do not see Senator Enzi here—Congressman Ensign, Congresswoman Mink, and Congressman Gibbons, if you would like to come forward. I think we see four of the six here. So, that is just about right.

Danny, we will begin with you. And thank you for being here today.

STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Senator AKAKA. Thank you very much, Mr. Chairman and members of the committee. I thank you for having this hearing and giving me the opportunity to offer my views about air tours flights at National Parks.

At the outset, allow me, Mr. Chairman, to acknowledge your leadership on this subject. Although it has been 10 years since passage of the National Parks Overflights Act of 1987, the law which you authored remains the standard of progress on this issue.

Mr. Chairman, park overflights are a serious threat to the integrity of National Parks. While air tours operators often provide important emergency services and can enhance park access for special populations, unregulated overflights have the potential to harm

park ecology, distress wildlife, impair visitor enjoyment of the park experience, and pose a safety hazard.

Air tourism is especially problematic in Hawaii, where the industry has enjoyed extremely rapid growth. Between 1982 and 1994, the number of air tour helicopters jumped from 35 to 82. The number of passengers flown rose from fewer than 184,000 to more than 500,000, with a commensurate increase in the volume of flights, as well.

At Haleakala National Park on Maui, helicopter operators have entered into an informal agreement that has reduced some, but not all, adverse impacts on the Park. The agreement has eliminated flights into the crater, a major accomplishment for which the Maui air tour operators should be praised. A significant drawback of the agreement, however, is that it is voluntary and lacks an enforcement mechanism to remedy violations. Another shortcoming is that the agreement stops at the Park's boundary, even though noise from the aircraft flying just outside the boundary impacts park resources.

Hawaii Volcanoes National Park on the Big Island does not enjoy a similar arrangement, and overflights of the park territory, as well as surrounding communities, continue at a great pace, essentially unregulated. An agreement has been difficult to achieve because of the area's unique climate and topography, which often limits the number of prime sightseeing routes available to operators. An accord has also been forestalled by the absence of a Federal policy framework to guide negotiations.

Absent formal agreements, the only effective regulation of commercial air tour aircraft in Hawaii has been SFAR-71, an emergency FAA rule issued in 1994, following a series of commercial aircraft accidents in the Islands. The rule established a minimum standoff distance of 1,500 feet and other operating restrictions on air tour aircraft throughout the State, which have resulted in significant safety and environmental benefits for Hawaii.

Although SFAR-71 is not specifically designed to address park overflights, it is, by default, the strongest existing mechanism we have for mitigating the impact of air tour operations on our National Parks. I, therefore, hope that FAA extends the rule indefinitely beyond its scheduled expiration date this fall.

Parenthetically, I should note that SFAR-71's usefulness has been undermined by excessive use of waivers that allow operators to fly as low as 500 feet above ground level. The rule has also been weakened by the practice of—although there are many good operators—some unscrupulous operators claiming they are engaged in commercial photography rather than sightseeing activities in order to fly even lower than the 500-foot waiver limit. And I, again, urge FAA to address these matters should the special regulation be renewed.

Serious as the problem is in Hawaii, park overflights are arguably an even greater problem at Grand Canyon, which experiences far more air traffic. Other parks, such as Grant Teton, Great Smoky Mountains, the parks of the Colorado Plateau, including Zion and Bryce Canyon, also experience serious overflight impacts. In fact, the study mandated by the 1987 Overflights Act revealed that at least 98 National Parks, more than a fourth of the National

Park System, are adversely affected by overflights. So, this problem is not confined to one or two States. This is a national issue that requires a national policy.

Mr. Chairman, the 1987 Overflights Act was intended to serve as the baseline for such a national policy. The law inspired a number of administration initiatives, including formation of an interagency working group by the Secretaries of Transportation and Interior, and joint rulemaking efforts by FAA and Park Service at the Grand Canyon, at Rocky Mountain National Park, and on the national commercial air tour rule.

While I applaud the administration, Mr. Chairman, for taking some positive steps on overflights, I am disappointed in the inconsistent pace of progress on these and other initiatives. In my opinion, the chief cause of inaction and delay has been the inability of the FAA and Park Service to develop integrated policies and procedures that can provide guidance to managers concerned with resolving overflight problems at the national, regional and park levels.

This shortcoming derives from the fact that the two agencies are charged with mutually exclusive missions. The FAA is responsible for the safety and efficiency of air commerce. The Park Service is charged with protecting and preserving park resources. Their charters and constituencies must necessarily come in conflict on the issue of regulating airspace over noise-sensitive areas. Only by modifying or clarifying the statutory responsibilities can we expect the two Federal agencies to work together effectively to address the overflights problem.

Mr. Chairman, this goal can be achieved by passing appropriate legislation such as your bill, S. 268, the National Parks Overflights Act of 1997, or my bill, S. 291, the National Parks Airspace Management Act, which I am pleased to note is cosponsored by two members of this committee, Senator Inouye and Senator Frist. Although our bills differ in some respects, they are in agreement on the fundamental issues. I also want to note that S. 291 recognizes Senator Stevens' concerns, by exempting Alaska from the provisions of the legislation.

First, our bills define the respective roles of FAA and the Park Service in the development of overflight policies specifically by assigning the Park Service the task of identifying and developing recommendations for protecting critical park resources, while properly restricting FAA's role to matters of aviation safety. Second, our bills establish a clear decisionmaking process that embraces constructive participation by interested parties, including operators and environmental advocates. Third, both S. 268 and S. 291 include mechanisms for protecting parks that currently do not experience overflights. Finally, our bills recognize the potential for the development of quiet aircraft technology, which has obvious applications at National Parks.

Together, these provisions offer the means to overcome the bureaucratic foot dragging that has characterized progress on the overflights issue thus far.

Mr. Chairman, as we have learned at the Grand Canyon and in Hawaii, while it is difficult to preserve a resource such as natural quiet, restoring it after it has been significantly compromised is

often impossible. The 1987 Overflights Act sought a balance between the interests of commercial air tour operators and the Park Service statutory mandate to preserve resources unimpaired for future generations, while providing for visitor enjoyment. Such a balance has, to date, proved to be an elusive quarry.

And, while I think that any legislation we consider should seek to be as fair and equitable as possible to all stakeholders, I believe that our highest obligation is to the citizens of the United States, who established the National Park System to preserve and enjoy our finest natural and cultural legacies. Thus, protecting park resources and visitor experiences from unacceptable impacts must be our top priority. We must act now if we are to achieve this goal.

Mr. Chairman, I view the park overflights issue as a nonpartisan one, which will require a strong bipartisan effort to resolve. In that context, let me close, Mr. Chairman, by indicating that I would deem it an honor and a privilege to be added as a cosponsor of your bill. I welcome the opportunity to work with you in resolving this troublesome issue. And I thank you, again, and the committee, for your ongoing leadership on this issue. I ask that statements and materials submitted by Citizens Against Noise and the Sierra Club, Hawaii Chapter, be included in the hearing record.*

The CHAIRMAN. Thank you very much, Senator Akaka. Those statements will be included as part of the record.

Senator AKAKA. I would also like to submit a resolution of support for S. 268, which was recently adopted by the State Legislature of Hawaii.

[The information referred to follows:]

STATE OF HAWAII, HOUSE CONCURRENT RESOLUTION

URGING THE HAWAII STATE LEGISLATURE TO SUPPORT SENATOR JOHN MCCAIN'S FEDERAL LEGISLATION TO PROVIDE FOR THE MANAGEMENT OF THE AIRSPACE OVER UNITS OF THE NATIONAL PARK SYSTEM

Whereas, a statewide coalition of a dozen community and environmental groups have filed a formal petition with the Federal Aviation Administration requesting the adoption of new regulations to control low-flying tour aircraft in the State of Hawaii; and

Whereas, the Sierra Club Legal Defense Fund, which is representing Citizens Against Noise, the Tour Aircraft Control Coalition, the Sierra Club, Conservation Council for Hawaii, Big Island Rainforest Action Group, Black Sands Beach Property Owners Association, Puna Outdoor Circle, Maui Air Traffic Association, Waiialao Iki Ridge Parks Beautification Association, Hawaii's Thousand Friends, 1000 Friends of Kauai, Maui Tomorrow, Life of the Land, and Pukalani Hula Halau, has formally presented the citizens' plea directly to Federal Aviation Administration officials visiting Hawaii to hear public testimony on the issue; and

Whereas, the Federal Aviation Administration public hearings held in September, 1995, gave Hawaii's petitioners the opportunity to express their concerns and resulted in the issuance of a special Federal Aviation Administration regulation for the State of Hawaii to mandate minimum altitude for tour aircrafts; and

Whereas, Hawaii's unique National Park Service lands consists of Kaloko-Honokohau National Historical Park, Kalaupapa National Historical Park, Pu'u Honua o Honaunau National Historical Park, Pu'u Kohala Hpiian National Historical Site, Haleakala National Park, and Hawaii Volcanoes National Park, and are managed for the purposes of wilderness preservation, protecting natural, cultural, historical, and wildlife resources, and for the promotion of public enjoyment and use of these resources; and

Whereas, input from industry groups, agencies, organizations, and officials in Hawaii would serve to greatly benefit Hawaii by addressing local concerns of air travel

* Note. The numerous newspaper articles have been retained in the subcommittee files.

and continuing to preserve and protect Hawaii's national parks and historic sites; and

Whereas, on February 7, 1997, Senator John McCain introduced the National Parks Overflights Act of 1997 in the United States Senate that would regulate flights over National Parks in Hawaii and elsewhere in the nation; and

Whereas, under Senator McCain's legislation, the Secretary of the Interior would develop recommendations which may include flight-free zones, curfews, and other flight restrictions for aircraft operating over certain National Parks; and

Whereas, the Administrator of the Federal Aviation Administration would then develop a plan, based upon these recommendations, to promote quiet and safety in our nation's National Parks; and

Whereas, Senator McCain's bill requires the Secretary of the Interior to recommend a proposal for prioritizing the implementation of appropriate flight restrictions at certain National Parks; and

Whereas, the bill also requires the Secretary of Transportation and the Administration of the Federal Aviation Administration to work together on recommendations that propose methods to encourage the use of quiet aircraft in our parks, unless such proposals are not needed to meet the goal of protecting quiet and promoting safety; and

Whereas, the bill promotes safety in our National Parks by allowing the Administrator of the Federal Aviation Administration, in consultation with the Secretary of the Interior, to put minimum altitudes for overflights in certain parks, and prohibit flights below those minimum altitudes, where necessary, to meet safety goals; and

Whereas, Senator McCain's bill also makes safety the paramount concern for the Administrator in developing an overflight plan for a National Park; and

Whereas, under the bill, the Administrator of the Federal Aviation may revise the Secretary of the Interior's recommendations to ensure public health and safety goals are met; and

Whereas, the bill's objectives are consistent with similar legislation authored or co-sponsored by Hawaii's congressional delegation, including Senator Daniel K. Inouye, Senator Daniel K. Akaka, and Representative Patsy T. Mink, to address related aspects of the overflight problem; and

Whereas, the natural ambient sound conditions found in a national park or "natural quiet" as it is commonly called, is precisely what many Americans seek to experience when they visit some of our most treasured National Parks; now, therefore,

Be it resolved by the House of Representatives of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, the Senate concurring, that the Legislature supports the passage of Senator McCain's National Parks Overflights Act of 1997; and

Be it further resolved that the impact of this proposed legislation can be greatly enhanced if all affected parties are willing to put their best efforts into working together in a spirit of collaboration to seek ways for all visitors to enjoy our national parks; and

Be it further resolved that as Congress reviews this legislation, it is urged to consider the efforts that have gone into the development of voluntary agreements worked out between the U.S. National Park Service and private industry to resolve the overflight problem; and

Be it further resolved that certified copies of this Concurrent Resolution will be transmitted to President William J. Clinton, to members of Hawaii's congressional delegation, to Governor Benjamin Cayetano, to the United States Secretary of Transportation, to the Administrator of the Federal Aviation Administration, to the Chairperson of the National Transportation Safety Board, to the Secretary of the Interior, to the Director of the U.S. National Park Service, to the state Director of Transportation, and to the Airports Administrator of the state Department of Transportation.

Senator AKAKA. Thank you very much, Mr. Chairman.

[The prepared statement of Senator Akaka follows:]

PREPARED STATEMENT OF HON. DANIEL K. AKAKA, U.S. SENATOR FROM HAWAII

Aloha, Mr. Chairman. Thank you for this opportunity to offer my views about air tour overflights at national parks.

At the outset, allow me to acknowledge your leadership on this subject. Although it has been ten years since passage of the National Parks Overflights Act of 1987, the law which you authored remains the standard of progress on this issue.

Mr. Chairman, park overflights are a serious threat to the integrity of our national parks. While air tour operators often provide important emergency services

and can enhance park access for special populations, unregulated overflights have the potential to harm park ecologies, distress wildlife, impair visitor enjoyment of the park experience, and pose a safety hazard.

Air tourism is especially problematic in Hawaii, where the industry has enjoyed extremely rapid growth. Between 1982 and 1994, the number of air tour helicopters jumped from 35 to 82, and the number of passengers flown rose from fewer than 184,000 to more than half a million, with a commensurate increase in the volume of flights as well as accidents.

At Haleakala National Park on Maui, helicopter operators have entered into an informal agreement that has reduced some but not all adverse impacts on the park. The agreement has eliminated flights into the crater, a major accomplishment for which the Maui air tour operators should be praised. A significant drawback of the agreement, however, is that it is voluntary and lacks an enforcement mechanism to remedy violations. Another shortcoming is that the agreement stops at the park's boundary, even though noise from aircraft flying just outside the boundary impacts park resources.

Hawaii Volcanoes National Park on the Big Island does not enjoy a similar arrangement, and overflights of park territory as well as surrounding communities continue at a great pace, essentially unregulated. An agreement has been difficult to achieve because of the area's unique climate and topography, which often limits the number of prime sightseeing routes available to operators. An accord has also been forestalled by the absence of a federal policy framework to guide negotiations. Absent formal agreements, the only effective regulation of commercial air tour aircraft in Hawaii has been SFAR-71, an emergency FAA rule issued in 1994 following a series of commercial air tour aircraft accidents in the islands. The rule established a minimum standoff distance of 1500 feet and other operating restrictions on air tour aircraft throughout the state, which have resulted in significant safety and environmental benefits for Hawaii.

Although SFAR-71 is not specifically designed to address park overflights, it is by default the strongest existing mechanism we have for mitigating the impact of air tour operations on our national parks. I therefore hope that FAA extends the rule indefinitely beyond its scheduled expiration date this fall.

Parenthetically, I should note that SFAR-71's usefulness has been undermined by excessive use of waivers that allow operators to fly as low as 500 feet above ground level. The rule has also been weakened by the fact that some operators, in order to be able to fly even lower the 500 foot waiver limit, are resorting to the practice of claiming they are engaged in commercial photography rather than sightseeing activities. (I hasten to note that this a minority practice; most operators fly legitimately and do not resort to such subterfuge.) I would urge FAA to address these matters should the special regulation be renewed.

Serious as the problem is in Hawaii, park overflights are arguably an even greater problem at Grand Canyon, which experiences far more air traffic. Other parks, such as Grand Teton, Great Smoky Mountains, and the parks of the Colorado Plateau, including Zion and Bryce Canyon, also experience serious overflight impacts. In fact, the study mandated by the 1987 Overflights Act revealed that at least 98 national parks, more than a fourth of the National Park System, are adversely affected by overflights. So this problem is not confined to one or two states; this is a national issue that requires a national policy.

Mr. Chairman, the 1987 Overflights Act was intended to serve as the baseline for such a national policy. The law inspired a number of Administration initiatives, including the formation of an Interagency Working Group by the Secretaries of Transportation and Interior, and joint rulemaking efforts by the FAA and Park Service at the Grand Canyon, at Rocky Mountain National Park, and on the national commercial air tour rule.

While I applaud the Administration for taking some very positive steps on overflights, I am disappointed in the inconsistent pace of progress on these and other initiatives. It took millions of years for the mighty Colorado River to carve out the magnificent Grand Canyon, and the task of completing the Grand Canyon rule appears to be proceeding at roughly the same speed. Meanwhile, the national rule, which was supposed to have been issued in draft form at end of 1996, is still in development. And, of course, there has never been a serious effort to develop rules for national parks in Hawaii.

About the only tangible achievement has been the promulgation of a flight ban on overflights at Rocky Mountain, but even this is a temporary expedient that awaits completion of the national rule. In my opinion, the chief cause of inaction and delay has been the inability of the FAA and Park Service to develop integrated policies and procedures that can provide guidance to managers concerned with resolving overflight problems at the national, regional, and park levels.

This shortcoming derives from the fact that the two agencies are charged with mutually exclusive missions. FAA is responsible for the safety and efficiency of air commerce, the Park Service is charged with protecting and preserving park resources. Their charters and constituencies must necessarily come into conflict on the issue of regulating airspace over noise sensitive areas. Only by modifying or clarifying their statutory responsibilities can we expect the two federal agencies to work together effectively to address the overflights problem.

Mr. Chairman, this goal can be achieved by passing appropriate legislation, such as your bill, S. 268, the National Parks Overflights Act of 1997, or my bill, S. 291, the National Parks Airspace Management Act, which I am pleased to note is cosponsored by two members of this Committee, Senator Inouye and Senator Frist. Although our bills differ in some respects, they are in agreement on the fundamental issues.

First, our bills define the respective roles of FAA and the Park Service in the development of overflight policies, specifically, by assigning the Park Service the task of identifying, and developing recommendations for protecting, critical park resources, while properly restricting FAA's role to matters of aviation safety. Second, our bills establish a clear decisionmaking process that embraces constructive participation by interested parties, including operators and environmental advocates. Third, both S. 268 and S. 291 include mechanisms for protecting parks that currently do not experience overflights. Finally, our bills recognize the potential for the development of quiet aircraft technology, which has obvious applications at national parks.

Together, these provisions offer the means to overcome the bureaucratic footdragging that has characterized progress on the overflights issue thus far.

Mr. Chairman, as we have learned at the Grand Canyon and in Hawaii, while it is difficult to preserve a resource such as natural quiet, restoring it after it has been significantly compromised is often impossible. The 1987 Overflights Act sought a balance between the interests of commercial air tour operators and the Park Service's statutory mandate to preserve resources unimpaired for future generations while providing for visitor enjoyment. Such a balance has, to date, proved to be an elusive quarry, and, while I think that any legislation we consider should seek to be as fair and equitable as possible to all stakeholders, I believe that our highest obligation is to the citizens of the United States, who established the National Park System to preserve and enjoy our finest natural and cultural legacies. Thus, protecting park resources and visitor experiences from unacceptable impacts must be our top priority. We must act now if we are to achieve this goal.

Mr. Chairman, I view the park overflights issue as a nonpartisan one which will require a strong bipartisan effort to resolve. In that context, let me close, Mr. Chairman, by indicating that I would deem it an honor and a privilege to be added as a cosponsor of your bill. I welcome the opportunity to work with you in resolving this troublesome issue.

The CHAIRMAN. Senator Allard, if you would indulge us. There is supposed to be a vote at 10:15, and we have our House colleagues here who I do not think we want to send over and have to come back. So, Congresswoman Mink, if we could go with you and Congressman Gibbons, and then we will go to Senator Allard, which may have to take place after the vote, if you do not mind, Wayne.

Senator ALLARD. That is fine.

The CHAIRMAN. Thank you.

STATEMENT OF HON. PATSY T. MINK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF HAWAII

Ms. MINK. I appreciate the opportunity, Mr. Chairman, to have this discussion about a matter that I care very deeply about. And I ask unanimous consent that my entire statement and enclosures be included in the record.

The CHAIRMAN. Without objection.

Ms. MINK. The matter of discussion really stems from your efforts, Mr. Chairman, in the enactment 10 years ago of the overflight bill. When I came to Congress in 1990, there was already

deep concern in the parks area and by people who were very interested in preserving the serenity of the park. And they always cited the efforts that you made in accomplishing for the Grand Canyon what we deeply desired for our own National Parks.

Hawaii, of course, could not be where it is today without tourism. And without a great dependence upon tourism, we would be in a very difficult economic strait. So, we understand perfectly the necessity to be tourist-friendly. But I think our major obligation here in the Congress is to pay attention to our responsibility to protect our National Parks that are there not only for the citizens of our State, but for all of the people of this country to enjoy when they come to visit.

And, more and more, the encroachment of tour helicopters and other kinds of aircraft have made it virtually impossible for the tourists to have the satisfaction of leaving the park area without being disturbed by this noise.

The major reason for my introduction of my own bill in the House, which is confined to the Hawaii National Park situation, is because we found it virtually impossible to get any kind of agreement between the Park Service and the FAA in terms of who had jurisdiction over this matter. Constant contact with the FAA, letters, resolutions passed by the legislature, and so forth. Even the law was turned back because the FAA consistently maintained that it had no power over the issue of noise, that it primarily was an aviation safety, aviation routing, and matters of that sort, but that it could not accept the responsibility to organize, regulate, and enforce noise protection efforts.

The National Park felt that there was no statutory enabling legislation which would give it power to legislate in the skies over the lands. We came to an absolute deadlock. So, we moved into this area—this nebulous area—of voluntary agreements. And I have to say that the voluntary agreement—that so-called agreement that now affects Haleakala National Park—is wholly ineffective. It may be an agreement on paper, but it simply is not enforced.

A family member of one of my staff recently hiked through the Haleakala Crater. And in a few days, they counted over 50 helicopter overflights. There is no way that the citizens who wish to protect the serenity of the heart of the park, which is the Crater, have anywhere to turn, because there is no enforcement mechanism.

We were heartened by President Clinton's announcement on Earth Day this year that he was going to mount an even more aggressive effort to get the bureaucracy together—to join together—to solve this problem not only for us, but for the other parks that are impacted. But nothing has come of that either.

I wish this committee would have the opportunity to visit our parks to see the huge encroachment that this overflight makes upon the enjoyment of the park. I think that unless we move legislatively—and my purpose here today is to commend you, Mr. Chairman. I know the opposition is tremendous. The opposition that I encountered when I offered my bill was enormous.

We do have the support of some of the newspapers. And, as I say, the legislature passed a resolution endorsing your bill. So, I believe that the general public is wholly in accord with the exercise of our

responsibility here in Congress to solve this problem of jurisdiction. There is disagreement here that too much power is being given to the National Park Service. Well, for 10 years, we have waited for the FAA to come forward with reasonable regulations and enforcement capacity. And they have declined that responsibility.

I think that it is perfectly legitimate for the Congress to say to the Park Service, your job is to protect the park and the serenity of the park and the enjoyments that the Congress decided when it declared it a park to be an important asset that needs to be protected, just like the wildlife, just like the trees and the fauna, and all the other requirements that go along with park management.

I commend you, Mr. Chairman, for calling these hearings, and hope that they will come to some fruition, that another overflight bill will be passed, and that it will encompass all areas. And, in particular, that it will, as it did 10 years ago, specify and acknowledge that Hawaii has a particular problem. My two Senators here have joined in this effort to do something about it, because we believe that every year that passes, greater damage is being done to the integrity and spirit of the National Park System in our State.

Thank you very much.

[The prepared statement and information of Congresswoman Mink follows:]

PREPARED STATEMENT OF HON. PATSY T. MINK, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF HAWAII

Dear Chairman McCain, Ranking Member Hollings, and members of the Committee: Thank you for the opportunity to testify on the important matter of National Park overflights. I have introduced my own legislation relating to this issue as it impacts upon National Parks in the State of Hawaii (H.R. 1187). I am greatly encouraged to see provisions in Senator McCain's bill (S. 268) and Senator Akaka's bill (S. 291) supporting flight restrictions similar to those in my bill—for example, flight-free zones and minimum flight altitudes—that would help tremendously to restore quiet in our National Parks.

Natural quiet is as much an experience in our parks as enjoying the beauty of treasures the parks were established to protect and preserve. A decade ago, Congress recognized that noise problems within our parks nationwide created by overflights had reached a point critical enough for Congressional intervention, by passing the National Parks Overflights Act of 1987.

On Earth Day 1996, President Clinton called upon the U.S. Departments of Transportation and Interior to issue regulations that would restore quiet to our parks. As a result of this action, new regulations were released in January of this year for Grand Canyon National Park. These regulations doubled the current flight-free area, limited the number of tour aircraft that may overfly the park, banned flights from sunset to sunrise, and developed rules requiring quiet aircraft technology.

The National Park Service and Federal Aviation Administration are currently constructing regulations for overflights above Hawaii's parks. However, I understand these could be years in coming and, in the meantime, air tours are operating under voluntary agreements that have not been effective in controlling overflight noise. I continue to receive complaints from hikers and visitors to Hawaii's parks, as well as residents living next to the parks. A legislative solution to decrease these disturbances is urgently needed.

I strongly agree that certain parks must be declared flight-free parks, spared from intrusive noise, and maintained as calm refuges for the enjoyment of all Americans. Minimum altitudes and standoff distances are equally important to preserve natural habitat for endangered and threatened birds and other species that make their homes in the parks. Special consideration must be given to the detrimental impacts on parks by commercial air tours, several of which have in the past demonstrated a lack of concern for the needs of park occupants and visitors, even to go so far as to jeopardize the safety of their passengers.

In my State of Hawaii, the need for restrictions on Hawaii's commercial air tour industry for safety reasons was made clear in July 1994 with two helicopter tour

crashes near the Island of Kauai and on the Island of Molokai, the former resulting in three fatalities. In response, the FAA put in place SFAR-71 emergency regulations applying to Hawaii's commercial air tour operators. As a byproduct, these regulations worked to partially alleviate noise problems in Hawaii's parks. However, the SFAR-71 will expire in October.

The persistent need for controls on the commercial air tour helicopter industry continues to remain apparent in the State of Hawaii. Four helicopter crashes on the Big Island since February of this year emphasize the need for increased attention to safety among Hawaii's helicopter industry overall. Three of these crashes involved fatalities and one was tour-related. In light of these incidents, I urge the subcommittee's quick action on a legislative solution to increase controls on the use of National Park airspace.

I deeply appreciate the opportunity to testify on National Park overflights and thank you for taking interest in this significant issue.

The CHAIRMAN. Thank you, Ms. Mink.

I just have one quick question. Do your park superintendents support this legislation?

Ms. MINK. I am not entirely sure. We have major complaints with respect to Haleakala's management, because we feel they could be more aggressive. But, in discussing this matter with the Washington, DC, Park Service people, it is this inability to override the FAA's insistence that they have airspace management over the park. So, while we may have major disagreements with the superintendent who is on the land, I believe the overriding problem, and what we can solve here in Congress, is to give one agency that responsibility.

The CHAIRMAN. Thank you very much.

Ms. MINK. And that, I think, would be of enormous help.

Thank you.

The CHAIRMAN. Thank you.

Congressman Gibbons, welcome.

STATEMENT OF HON. JAMES A. GIBBONS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. GIBBONS. Mr. Chairman, I want to thank you for the opportunity to appear here today. And I appreciate greatly associating myself with the comments of the Senator from Nevada as well.

I am here to do two things. One is to testify with regard to this bill, but to offer the State of Arizona the opportunity to deed the property of the Grand Canyon over to the State of Nevada once and for all, so we can associate ourselves with it. [Laughter.]

The CHAIRMAN. You not only want our water, you want our park, too. [Laughter.]

Mr. GIBBONS. Senator, whatever it takes. [Laughter.]

I believe, Senator and gentlemen, that the purpose of this bill, of course, is very laudable. The language itself is troubling. And I am troubled expressly with the language of the bill in several areas:

First, access for those people who are physically or health-wise handicapped and unable to do a land tour of the area.

Second, the safety of those people—the forcing and constriction of the traveling air public into certain areas. As you know and I know, when you put airplanes together in a smaller corridor, you increase the risk of safety to those people.

And, third, the jurisdiction over control of the airspace—granting jurisdiction to land managers rather than the FAA.

I would ask unanimous consent, Mr. Chairman, that a full copy of my written remarks be entered into the record today, as well.

The CHAIRMAN. Without objection.

Mr. GIBBONS. Mr. Chairman, as I said earlier, I represent the 2nd District of Nevada, which is 99.8 percent of the geographic territory of the State of Nevada. The State of Nevada is a unique State. It is nearly the size of Montana, and has 87 percent of its land managed by the public agencies of the Federal Government. This presents the State of Nevada with a unique problem—unique from the standpoint that 13 percent of our State has to run the operation and fund the government in our State.

As a retired commercial airline pilot, former military pilot, private pilot, and instructor pilot, I have a particular interest in your legislation, S. 268, the National Parks Overflights Act of 1997. And, Mr. Chairman, like you, I served as a fighter pilot during Vietnam and, as well, in the Persian Gulf War. I am a graduate of the Air Force Air Command and Staff College and the Air War College. I currently hold the rank of Colonel in the United States Air Force Reserve.

Additionally, I am a commercial airline pilot and have been for 17 years, with Delta Airlines. I have approximately 18,000 hours of pilot experience. I highlight my aviation experience only to demonstrate my personal interest in his bill and, in particular, the aviation industry side and tour industry—the traveling public.

Our success in Nevada is based primarily on small business enterprises. And they have earned the support of our entire congressional delegation, as well as the Governor, the Hon. Bob Miller. But these air tour operators provide more than 1,200 jobs, primarily in Nevada, and Arizona as well, and inject approximately \$250 million into the regional economy each year.

Because of this environmentally-preferred industry, 800,000 of the 5 million visitors—approximately 17 percent—each year are able to experience a once-in-a-lifetime, bird's-eye view of one of nature's seven wonders of the world, the Grand Canyon. Many of these visitors do not have the physical stamina to visually experience the remarkable expanses of the Canyon. Many other visitors are physically impaired or disabled. Nationally, 30 percent of the national air tour passengers are under 15 years old, while 20 percent, or 400,000, choose air tours for health-related reasons; and 12 percent, or 240,000, are disabled.

I provide this background to highlight the contributions made by this form of transportation. Air tours do not destroy or inhibit environmentally sensitive ground, as other forms of tours do on a daily basis. I am concerned that specific provisions of this legislation would impair or destroy not only the continued economic viability of this vital Nevada and national resource, but our precious park lands as well. And, because industry witnesses will focus on other concerns in this legislation, I will focus on those issues I talked about earlier, including safety issues.

This bill, S. 268, claims in its findings that, "aircraft operators in a National Park raise serious concerns regarding public safety, including concerns regarding the safety of park users." As a pilot, I do not believe that the public record of the FAA or National Transportation Safety Board in the Grand Canyon provide substantial

evidence to condemn our Nation's air tour industry. In fact, on June 1, 1995, a National Transportation Safety Board report concluded that the Grand Canyon system of air routes, additional pilot training, and flight-free zones are a model to be duplicated in other areas, such as my colleague's parks in Hawaii, where air traffic and environmental concerns are of a similar nature.

As a pilot, I believe the FAA has established and policed one of the world's safest high-volume air traffic systems, and that the nationwide air tour industry is one of the safest components of the air industry as well. Therefore, I am deeply concerned with the provisions under section (C). Implementation, subsection 2(a). This subsection would legally compel the FAA Administrator to implement any National Park Service recommendation for air tour industry use of any airspace over any National Park without change unless the FAA Administrator determines the recommendation would adversely affect aviation safety.

I do not believe that we as a Nation would be well served by transferring control of our Nation's airspace to public land managers. I believe it is a rational assumption to include that when the National Park Service obtains control over airspace, every other Federal land management agency, including the Forest Service, Bureau of Land Management, Fish and Wildlife Service, et cetera, will be declaring jurisdictional rights to manage and control all their respective airspace.

As a pilot, I believe this legislation would create conflicting and confusing flight elevations, routes, and restrictions over all public lands. Basic, fundamental airspace management over all public lands must remain under the control and jurisdiction of the FAA, where it has been since 1958. No other nation in the world grants airspace management responsibility to their national land management agencies.

Mr. Chairman, I hope we can engage in some serious discussions about this issue throughout this testimony. And I want to thank you for the opportunity to share today my views with you and your distinguished committee on S. 268, the National Parks Overflights Act of 1997.

[The prepared statement of Congressman Gibbons follows:]

PREPARED STATEMENT OF HON. JAMES A. GIBBONS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEVADA

Mr. Chairman, Members of the Commerce, Science and Transportation Committee, I represent the second district of Nevada. As a retired commercial airline and military pilot, I have particular interest in your legislation S. 268, "National Parks Overflights Act of 1997". In addition, Mr. Chairman, I served as a fighter pilot during the Vietnam and Persian Gulf Wars. I am a graduate of the Air Force's Air Command and Staff College, and Air War College, and currently hold the rank of Colonel in the Air Force Reserve. Additionally, as a commercial airline pilot for 17 years with Delta Airlines, I have approximately 18,000 hours of pilot experience.

I highlight my aviation experience to demonstrate my personal interest in this bill and in particular, the air tour industry. Our successful Nevada-based, small business enterprises have earned the support of our entire Nevada Congressional delegation, as well as Governor Bob Miller. These air tour operators provide more than 1,200 jobs primarily in Nevada and Arizona, and inject more than \$250 million into the regional economy each year. Because of this environmentally preferred industry, 800,000 out of 5 million visitors (approximately 17% of all park visitors) each year are able to experience a once in a lifetime, bird's-eye view of one of nature's seven wonders of the world, The Grand Canyon. Many of these visitors do not have the physical stamina to visually experience the remarkable expanses of the Canyon.

Many other visitors are physically impaired or disabled. Nationally, 30% of the national air tour passengers are under 15 years old, while 20% (400,000) chose air tours for health related reasons, and 12% (240,000) are disabled.

I provide this background to highlight the contributions made by this form of transportation. Air tours do not destroy or inhibit environmentally sensitive ground, as other forms of tours do on a daily basis. I am concerned that specific provisions of this legislation could impair or destroy not only the continued economic viability of this vital Nevada and national resource,, but our precious park lands.

Because industry witnesses will focus on other concerns in this legislation, I will focus on the air safety issues.

Senate bill 268 claims in its findings that "aircraft operators in a national park raise serious concerns regarding public safety, including concerns regarding safety of park users." I do not believe the public record of the FAA or National Traffic Safety Board in the Grand Canyon provides substantial evidence to condemn our nation's air tour industry.

In fact, on June 1, 1995 a National Transportation Safety Board Report concluded that the Grand Canyon's system of air routes, additional pilot training and flight free zones are a model to be duplicated in other areas, such as Hawaii, where air traffic and environmental concerns are similar.

As a pilot, I believe that the Federal Aviation Administration has established and policed one of the world's safest high-volume air traffic systems and that the nationwide air tour industry is one of the safest components of the industry.

Therefore, I am deeply concerned with the provisions under section (C) Implementation, subsection (2)(A). This subsection would legally compel the FAA administrator to implement any national park service recommendation for air tour industry use of any airspace over any national park without change unless the FAA administrator determines the recommendation would adversely affect aviation safety.

I do not believe that we as a nation would be well served by transferring control of our nation's airspace to public lands managers. I believe it is rational to assume that when the National Park Service obtains control over airspace, every other federal land managing agency, including the Forest Service, Bureau of Land Management, Fish and Wildlife Service, etc. will be declaring jurisdictional rights to manage and control all their respective airspace.

As a pilot, I believe this legislation could create conflicting and confusing flight elevations, routes and restrictions over all public lands.

Basic, fundamental airspace management over all public lands must remain under the control and jurisdiction of the FAA where it has been since 1958. No other nation in the world grants airspace management responsibility to their national land managing agencies.

Thank you, Mr. Chairman for this opportunity to share my views with you and your distinguished committee on Senate bill 268, the National Parks Overflights Act of 1997.

The CHAIRMAN. Thank you very much, Congressman Gibbons.

Everybody is entitled to their opinions. Not everybody is entitled to their facts. Since the 1987 Grand Canyon Overflights Act, where we established corridors and raised the minimum altitude, the accident rate has gone down. The fact is, that the Park Service and the FAA, working together, have indeed restored a great degree of natural quiet at the Grand Canyon.

There are those in the air tour business who will testify here today against this legislation, and I can show you the letters—and I will submit them for the record—that said they were going to go out of business if we employed the rules of the 1987 Act. They were going to go out of business. In fact, their business quadrupled over the intervening 10 years.

[The information referred to follows:]

GRAND CANYON HELICOPTERS,
Grand Canyon, AZ, October 22, 1987.
PAPILLON HAWAIIAN HELICOPTERS,
Hanalei, Kawai, HI.

Dr. ALLEN FITZSIMMONS,
Special Assistant to the Assistant Secretary of Fish, Wildlife & Parks
U.S. Department of Interior,
Washington, DC.

DEAR DR. FITZSIMMONS: During the past few weeks, it appears that you are being persuaded to recommend adoption of Plan A (enclosed) as the proposed solution to the perceived aircraft noise problem at Grand Canyon National Park (GCNP). It seems that supporters of that Plan assume that (1) helicopters are the major source of noise intrusion at the Canyon, and (2) that all air tour operators at the Canyon—except Grand Canyon Helicopters—support the revised Plan. Both assumptions are incorrect.

I have enclosed several exhibits that are intended to dispel the myth that helicopters are responsible for the perceived noise problem in the Canyon. (Exhibit 1) is a copy of noise complaint data compiled by the Grand Canyon National Park Service (NPS) staff from 1978–1984. As you can see, helicopters received less criticism than most other aircraft. Those few complaints associated with helicopter overflights resulted primarily from helicopters flown by the NPS for administrative purposes.

I am also attaching a copy of a study conducted by the NPS (Exhibit 2) which monitored comparative decibel levels of a single engine Cessna fixed-wing and a Bell Jet Ranger helicopter. It concludes the following: The decibel levels were virtually identical for both aircraft. This conclusion was also stated in the official Senate hearing record on S. 451 (Exhibit 3).

I have also enclosed a chart (Exhibit 4) compiled from Federal Aviation Administration (FAA) data which identifies decibel levels of various aircraft while in flight. As you can readily see, the helicopter is simply not the "evil menace" it is alleged by some to be.

Enclosed (Exhibit 5) is a comparison chart from E.P.A. report, HTID 300.13 dated December 31, 1971, "Transportation noise from equipment powered by internal combustion engines."

During a meeting on October 13, 1987, with Senator McCain's Administrative Assistant, Mr. Chris Cook, and another of his aides, Mr. John Timmons, the latter stated that all the operators who operate in the Grand Canyon agreed with this proposal (Plan A) except for Grand Canyon Helicopters. I was, to say the least, shocked to hear this as I knew it to be untrue. Soon thereafter, I met with approximately 96% of the tour operators who fly tours in the Grand Canyon from both Arizona and Nevada. They informed me that they had never even seen the plan proposed by John Timmons, and they confirmed my belief that they would not support it. Those same individuals signed petitions to that effect, which you have received.

I believe that Plan A has been recommended by people who are attempting to make one last effort to eliminate Helicopters from operating in the Grand Canyon. I believe you personally witnessed this bias during the September 4, 1987, Grand Canyon meeting. Their attempt to shift helicopter operations away from Point Sublime is blatantly arbitrary and capricious and cannot be justified for purposes of noise abatement or safety. Approximately 60,000–80,000 people view the Anasazi ruins by helicopter annually. The equities simply do not justify the elimination of the site to helicopter tourists.

The Indian ruins at Point Sublime are accessible by air, only in a helicopter. The enclosed study (Exhibit 6) paid for by the National Park Service clearly states that helicopters, as they were formerly flown (much closer than under the current FAR 50-1) will cause no harm to these ruins. The elimination of helicopter flights to the ruins, cannot therefore be justified as a means of "preserving the resource".

The proposed Plan A also creates some significant economic inequities for the helicopter industry as compared to fixed-wing aircraft. The routes proposed in the Plan could be flown by an airplane in approximately 42 minutes or less. That same flight would take approximately one hour in a helicopter. The one hour flight in a helicopter will cost the passenger between \$135–\$150 given the extremely high cost of operating this type of aircraft. The same flight, taken in a fixed-wing aircraft could be accomplished for \$35–\$50 per passenger. With no motivator, such as the Indian Ruins, an exclusively helicopter-provided sight, it is virtually impossible for us to compete with the fixed-wing airplane. Initially, the helicopter will survive, until the passenger becomes educated to the inequity in his/her purchase. Today's consumers are very price conscious and known to shop. In a short period of time it will be well

established that both tours are identical, only one is 3 to 4 times more costly. We agree that many people would like to take a helicopter flight for the sake of it, however that is only true with short 5-10 minute tours which are no longer possible. With the few tour options left the decision will be purely economical. Would a couple visiting the Canyon elect to spend \$300.00 for the Helicopter tour when the identical tour could be purchased in a fixed wing airplane for \$70-\$100? We feel the answer is obvious—NO!

In sum, the proposed Plan would create an undue and unacceptable hardship on the helicopter operators. It is simply unfair and not consistent with the objectives of Public Law 100-91. Administrative implementation of Plan A can only be viewed as arbitrary and capricious. I truly hope that this letter, and the petitions which I have sent you, and the other letters which I hope will be arriving in the very near term, will convince you to reconsider what is being recommended to you.

I am prepared to travel to Washington at any time to discuss this matter further. If you think it would be useful for me to return for further discussions, please don't hesitate to call.

Sincerest regards,

JAMES L. KAHAN,
Executive Vice President.

ALLIED TOURS,
Los Angeles, CA, October 23, 1987.

Dr. ALLEN FITZSIMMONS,
*Special Assistant to the Assistant Secretary of Fish, Wildlife and Parks,
U.S. Dept. of the Interior,
Washington, DC.*

DEAR MR. FITZSIMMONS: I am writing to express my concern, and that of my company, about the recent developments in the dispute over "flight free zones" in the Grand Canyon National Park.

While the Grand Canyon is a natural wonder, and as such should be available for the enjoyment of those who wish to explore the area on foot without the encroachment of commercial aircraft, we feel that current plans call for excessive limitation of the activities of these craft. There are several reasons for our concern in this matter, which are listed below:

(1) As one of the United States' largest coach tour operators, Allied carried close to ten thousand overseas visitors to the Grand Canyon during 1987. As very few, if any, of our passengers (who tend to be elderly) are physically able to manage the steep hiking trails in the Canyon, the only way that they can truly experience its wonder is through "flightseeing."

(2) Even if our passengers were able to traverse these trails, most of their budgets only allow for a limited visit to this country. For this reason tour itineraries are kept as short as possible, with an emphasis on seeing as much as possible in a short time. Our itineraries cannot allow for a full day in the Park, which would be necessary for anyone to participate in hiking. Again, their alternative is to enjoy the Canyon from above.

(3) It is our opinion that the Grand Canyon is large enough to accommodate both sightseeing aircraft and hikers, especially since most of the hiking is confined to a specific area, which is easily avoided by the aircraft.

(4) We are also most concerned about the confinement of "flightseeing" to two or three narrow corridors. We feel that such confinement will, given the number of aircraft using the area, create an unacceptable risk to our passengers.

(5) We feel that if the most recent plans for curtailment of flightseeing are enacted, it will no longer be worth our passengers' money to fly over the Canyon. If this is the case, we would have to seriously consider whether or not it is worth including this area in our itineraries. I am sure that I do not have to remind you what the potential loss of income to the Department would be if Allied (and other companies like ours) decided to omit the Grand Canyon National Park from future tours.

In closing, we would ask you to consider the alternative plan for airspace restriction as proposed by Mr. Jim Kahan of Grand Canyon Helicopters. We feel that this plan allows for ample "flight-free zones" over areas most enjoyed by hikers in the Canyon, and at the same time allows for safe viewing of sufficient areas of the Canyon by aircraft passengers. Mr. Kahan's plan also allows for the viewing of the Indian ruins at Point Sublime by helicopter-borne sightseers, which would be disallowed under the plan currently being considered.

All we ask is that you allow the maximum number of visitors to enjoy this natural wonder to the maximum extent possible, and in maximum safety.

Sincerely,

GREGORY FISHER,
Vice-President.

GRAND CANYON HELICOPTERS,
Grand Canyon, AZ, October 22, 1987.

Dr. ALLEN FITZSIMMONS,
Special Assistant to the Assistant Secretary of Fish, Wildlife and Parks,
U.S. Dept. of the Interior,
Washington, DC.

Dr. Fitzsimmons: I was one of the fortunate persons able to attend the meeting held on Sept. 4, 1987 called by Senator McCain, due to his invitation to James Kahan, with whom I work at Grand Canyon Helicopters. During the meeting I recall Senator McCain expressing that tours would continue over the Canyon, and he even made special mention of helicopter tours. It was at this meeting that our company introduced by Mr. Halvorson a "flight-free" zone plan for the canyon which we felt could satisfy the requirements of HR. 921 and all parties concerned. It was based on backcountry hiker statistics taken from the Final All Users 1986 Grand Canyon National Park Backcountry Use Information Report.

During this period the National Park reported 3,347,872 persons visited the Grand Canyon, however, merely 34,577 obtained backcountry hiking permits, which represents 1.03% of all visitors. Using the Bright Angel and South Kaibab Trail were 23,491 personnel or 68% of all backcountry permits, with an additional 2070 using the North Kaibab Trail, thus 74% of all hikers used the heavily traveled Bright Angel Canyon, a highly developed area. In 1986 our company flew 56,511 customers who were extremely satisfied in their air tour of the Grand Canyon. The entire air tour industry provides this valuable service to some 450,000 tourists each year.

Last week we received an aircraft management plan sent to us from the office of Senator McCain. As a helicopter operator, we feel this plan will have a devastating effect on our business, and the air tour business in general for all Arizona operators. The plan eliminates the viewing of the Anasazi Indian ruins which has been one of our tour highlights. This was taken away by the routing of helicopters further east of the Point Sublime area, which is closed from October to May, and had only 150 backcountry hikers in 1986 according to the aforementioned report. The creation and/or excessive increase of "flight-free" zones over areas which are rarely ever hiked virtually eliminates the feasibility of providing a quality air tour. This plan would also require the greater amount of the tours to be flown over the heavily wooded areas of either the North or South Rim. Flying over the North Rim would require altitudes of 95,001' and 10,500', which would increase length of tour and tour costs while showing the customer less of the beautiful canyon formations. Aircraft would be channelled into the same corridors that would be overly congested vertically and horizontally, causing a safety concern.

We urge you to keep flight free zone areas to a minimum, limiting them to only the heavy traffic areas of hikers which are adversely effected by noise of overflight.

We appreciate the opportunity to share our comments with you and hope you will give us the consideration we feel we deserve.

Please feel free to contact me, if I may be of further assistance.

Sincerely,

MILES BECKER,
Director of Operations.

GRAND CANYON AIRPORT,
Grand Canyon, AZ, September 23, 1987.

Dr. ALLEN FITZSIMMONS,
Office of the Assistant Secretary,
Department of the Interior,
Washington, DC.

DEAR DR. FITZSIMMONS: I was advised this morning by Mr. Ed. Norton that your Office will be recommending a proposal to the F.A.A. that will entail a helicopter corridor the Little Colorado confluence and a flight-free area covering the eastern

sector of the Grand Canyon National Park from Desert View to the north Park boundary to a line just east of Point Sublime.

Please be advised that such a proposal, if adopted, will severely impact the ability of this company to remain a competitive force in the sightseeing industry and may result in our discontinuation of business after 62 years at Grand Canyon. At a minimum, it will end our further investment in quiet aircraft technology.

We placed the first Vistaliner in service in 1983 in response to the perceived need for quieter aircraft at Grand Canyon to abate, overflight noise. The current proposal, as we understand it, provides nothing to encourage us to continue use of this "best available" technology. In fact, quite the contrary appears true. It now appears to our economic advantage to return to smaller, noisier, aircraft, or to convert helicopters to gain full advantage of the proposed rules. While such a change does not appear to be in the best interest of the National Park's visitors, it does appear to be in ours.

Notwithstanding the oratory to the contrary, it appears that there is no real interest in quieter aircraft or their application at our National Parks.

We have worked through the National Park Service to express our ideas and views on noise abatement at Grand Canyon. If our suggestions have not been made clear to you, I would welcome the opportunity to answer any questions you may have.

Sincerely,

RONALD L. WARREN,
Vice President.

SEDONA AIR CENTER,
West Sedona, AZ, October 16, 1987.

Dr. ALLEN FITZSIMMONS,
Special Assistant to the Assistant Secretary of Fish, Wildlife and Parks,
U.S. Department of the Interior,
Washington, DC.

DEAR DR. FITZSIMMONS: I am somewhat confused with regard to the procedural guidelines that are being followed for the development of the rules regarding the implementation of HR. 921. In fact, this entire process seems to be unorthodox. I am especially concerned with the fact that my company has not been asked to participate in this rulemaking nor have we been asked to provide any input whatsoever on the future of Grand Canyon air tours.

Although I was not invited to attend Senator McCain's September 4, 1987 meeting, I have obtained a copy of the map he sent to the attendees. The plan presented may have little, if any, significant impact on non-Arizona based operators. However, it will have a devastating effect on those of us located within the state. This plan will effectively diminish the quality of our tours and force us to fly extended periods of time over the forest with only brief interludes in the Canyon. Many of the most desired tourist sights such as Point Sublime will no longer be accessible by air if this plan goes into effect.

U.S. Park Service figures show that less than 200 tourists hike to Point Sublime and various other points in that vicinity yearly. Whereas thousands of tourists view this area yearly by air, in essence what this proposed plan will do is turn the Grand Canyon into a private, elite park for a handful of hikers. A few will gain at the expense of the masses.

There must be a plan that will better satisfy the needs of everyone concerned.

Sincerely,

JACK E. SEELEY,
President.

KENAI HELICOPTERS,
Flagstaff, AZ,

Dr. ALLEN FITZSIMMONS,
Special Assistant to the Assistant Secretary of Fish, Wildlife and Parks,
U.S. Department of the Interior,
Washington, DC.

DEAR MR. FITZSIMMONS: We have reviewed the aircraft management plan as sent to us from the Office of Senator John McCain. We feel that this plan will have a devastating effect on our Air Tour operations and we hope that you will adopt the plan that was approved prior to your meeting on Friday, October 2, 1987.

We have made a slight adjustment to the prior approved plan that better serves the fixed-wing aspect of our industry (see attached map). This plan will accommodate all concerned using the Canyon and should act to reduce noise without compromising safety. We strongly urge you to adopt this "revised" version of the Plan, in lieu of the one we most recently received.

Sincerely,

DAN O'CONNELL,
Manager.

LAS VEGAS AIRLINES,
Las Vegas, NV, October 22, 1987.

Dr. ALLEN FITZSIMMONS,
*Special Assistant to the Assistant Secretary for Fish, Wildlife and Parks,
Department of the Interior,
Washington, DC.*

DEAR DR. FITZSIMMONS: Las Vegas Airlines, Inc. has been operating Grand Canyon Tours since 1973. We are extremely disappointed with our Legislators ignoring statistics in favor of Campaign contributions.

I believe that noise free areas should be established over the areas that are popular for "hikers". Arbitrarily extending these areas demonstrates complete disregard for the "majority", which is the basis for our Democratic Government.

Concentration of flight areas has an immediate effect on flight safety. It appears that the objective of present and proposed restrictions is directed toward causing an Aircraft accident that will support the environmentalists in their efforts to restrict all over flights.

Air tour operators have made every effort to conform to flight paths that will reduce noise. These same operators have had their interest neglected in favor of the financially well off vocal minority.

Air tour operations provide a large amount of money from Foreign sources. This is in jeopardy if a quality product cannot be provided. Excessive flight free areas will ultimately result in losses of the Foreign Dollar.

The present proposal is going to put some companies out of business immediately and more in the not too distant future. I understand this was not the objective of Congress but is the objective of the environmentalists.

Please, in the final proposal, consider the documented facts and not the personal gains that will be achieved by Legislators.

Thank you for your support in achieving an equitable solution to the uncontrolled legislation.

Respectfully,

DONALD J. DONOHUE,
President/Chairman.

DESERT SOUTHWEST AIRLINES,
Las Vegas, NV, October 20, 1987.

Dr. ALLEN FITZSIMMONS,
*Special Assistant to the Assistant Secretary for Fish, Wildlife and Parks,
Dept of the Interior,
Washington, DC.*

DEAR DR. FITZSIMMONS: Desert Southwest Airlines is a small company involved with sightseeing trips over the Grand Canyon. I have been reviewing proposed routes and flight free zones being established for the Grand Canyon area, and I feel more time and consideration should be given to this matter. Following are some of my concerns regarding the proposed changes:

Contrary to the Reagan administration policy "Parks for People", the proposed plan limits access to hundreds of miles of the Grand Canyon that are rarely ever hiked, and will now be off limits to the flying public.

It channels aircraft into an almost "carrousel-like" route that may prove to be overly congested and therefore potentially dangerous.

It almost entirely eliminates the viewing of the most famous Canyon formations, making the desirability of air tours in general questionable.

It increases flight time over non-canyon forested areas by 50-60% thereby increasing tour costs while showing passengers less of the Grand Canyon.

It creates excessive "flight free" zones even in areas where NPS statistics show few if any backcountry users exist.

It decreases safety by requiring flights to traverse the heavily wooded National Forest areas that are not ideal for emergency or precautionary landings.

The plan eliminates the opportunity for tens of thousands to see the Anasazi Indian ruins by arbitrarily routing helicopters away from the rarely hiked Pt. Sublime area which is closed in winter months.

It creates a poor quality air tour that may lead to customer dissatisfaction and with it potential business failures and ultimately the end of the air tour industry.

It creates few air tour options thereby causing intense competition for the "same" customer which eventually leads to price-cutting, diminished service to the passenger and possible safety violations.

It may eventually lead to business failures, especially failures of the smaller operators. This is clearly contrary to the intent of the Congress which stated that they did not want anyone to be forced out of business.

Extended flight free zones are unnecessary as they eliminate flights over massive areas where no one visits. Eighty percent of hikers remain in the corridor along the Bright Angel Trail. The proposed plan is overbroad and unnecessary. Why should 450,000 air visitors have to give up their view of the Grand Canyon for a few hikers in some zones. The plan the Air Tour Operators are willing to accept sufficiently meets the requirements of the law by restricting flights over the most noise sensitive areas. The proposed plan is totally unreasonable and potentially harmful to the industry.

The proposed plan will force fixed wing operators to provide longer tours, eliminating the short and intermediate tour buyers which will result in substantially lower revenues.

Sincerely,

CHARLES HERRMANN,
Vice-President.

SCENIC AIRLINE, INC.,
North Las Vegas, NV, October 10, 1996.

TESTIMONY OF CLIFF LANGNESS, PRESIDENT OF SCENIC AIRLINES, LAS VEGAS, NV

Senator McCain and members of the Subcommittee; My name is Cliff Langness. I serve as President of Scenic Airlines and in that capacity I am honored that you allow me the opportunity to speak today in defense of the air tour industry. I am particularly pleased to be speaking to the author of the 1987 National Parks Overflights Act.

There is a basic misunderstanding of what the Overflights legislation is saying with respect to natural quiet. Clarification of Congressional intent would be extremely helpful in planning for the future. The root of this misunderstanding is in the phrase, "provide for substantial restoration of the natural quiet and experience of the park. . . ."

Our industry has a difficult time reconciling this language with the park service position of protecting natural quiet regardless of whether or not anyone is around to hear it. As we read and reread the Act of 1987, our attention is always drawn to the phrase, "natural quiet and experience." To us, this implies that the intent of Congress was to provide an environment that allowed park visitors to experience a natural quiet. Someone, in fact, has to be in the park to experience such a phenomena.

The implications of this subtle difference is enormous. If you take the Park Service view that natural quiet should be protected for natural quiet's sake, then we really have a potential problem and drastic action is required now to correct it. If you believe, as we believe, that Congress intended to have the visitor, the listener, as part of the equation in the Overflights Act, then this legislation and SFAR 50-2 is a success. Substantial restoration of natural quiet has been achieved. The regulation has been every bit as successful in restoring natural quiet as it has been in improving safety.

Consider the size of this park. This is not Central Park; this is not a small-sized or even medium-sized park. It is a huge park; it is larger than the state of Rhode Island. The overflight airspace that was created as part of the 1987 legislation is larger than both the states of Delaware and Rhode Island combined.

Consider also the remoteness of this park. Over 75% of Grand Canyon National Park is practically inaccessible to all but 1% of the total visitors. Stated in the reverse, 99% of all visitors are confined to less than 25% of the park. The proposed rulemaking would make 87% of the park off-limits to overflights. This simply does not reconcile with our understanding of the Overflights Act.

Consider also the number of written complaints received since the implementation of SFAR 50-2. From 1988 to 1993 a total of 280 complaints were offered from a visitation population exceeding 20.4 million people. The ratio is statistically insignificant. It causes us to wonder why we are here.

Of the current complaints investigated by the FAA, an estimated 8 out of 10 involve activities of National Park Service contracted helicopters. Again, from the people's point of view, SFAR 50-2 has worked very well. Why can't we continue to improve on this regulation as opposed to going to the complete overhaul that is suggested in this NPRM?

The scenic tours offered out of Las Vegas are about 350 miles long and out of that, 23 miles is actually flown over the park. All of this area is in that 75% of the park where less than 1% of all visitors go. It is rare to see any signs of life out there at all. This proposed rulemaking would prohibit flight over 5 of the 23 miles and virtually ruin an earlier compromise of a good tour route.

This industry has survived because we provide a service to visitors that they appreciate. If you deny us a good tour route, you reduce us to just another commuter activity. The demand for travel to the Grand Canyon will not go away. By implementing this rule, you will deny hundreds of thousands of visitors a unique aerial view of the park; one that they appreciate and are willing to pay for. It is not a fluke of nature that regional and commuter airlines have not done well in this market. Given a choice of direct service or an aerial tour, the consumer has preferred the air tour experience.

We operate in remote areas where our noise intrusions are minimal to park visitors. We believe that is a proper place for us and that our activity is both legitimate and environmentally friendly. Making noise where no one hears us is not to say that we advocate noise proliferation. On the contrary, everyone in our industry would prefer to operate aircraft that make no noise at all. Many of us have spent millions of dollars in achieving the quietest fleet of aircraft that existing technology can produce. Quiet aircraft technology is expensive and getting into it has more to do with utilization risks and creditworthiness than it does with operating costs.

We also believe in the technology of tomorrow. We believe it is capable of producing aircraft that will eliminate all offensive noise intrusions we presently inject into the environment. One of our concerns is that the specific application of air tourism is too small to support the amount of research necessary to move us into that technology quickly. We appreciate Senator McCain's effort in getting legislation through that advocates research of technology that will make aircraft quieter. We will continue that same effort in the private sector.

One of our fears in dealing with this specific NPRM is that when the federal government takes something away they never give it back. This rule would increase the flight-free zones from 45% to 87% of the park. Twenty years from now we could potentially have a fleet of stealth tour aircraft that made no noise at all. Would you still restrict us from overflying the no fly zones?

That concludes my remarks, I thank you again for the opportunity to express them and will answer any questions you have for me. Thank you.

The CHAIRMAN. The American people, in my view, deserve the right to enjoy a National Park and not have it resemble Sky Harbor Airport or McCarran Airport in Las Vegas. That is what it was like at the Grand Canyon. And that is what it is like at a number of other National Parks in America.

And yes, we can make improvements, but to reject out of hand a proposal that will allow people to enjoy the park experience without having it destroyed by helicopters and aircraft overhead, I think, is unacceptable and I think the majority of the American people—and we hear from them all the time—that visit National Parks want the right to enjoy the park experience. And we can do that without depriving the American people of their ability to see the park by air tour as well.

Senator Allard.

**STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR
FROM COLORADO**

Senator ALLARD. Mr. Chairman, I have about 5 minutes of testimony. I can continue as the committee wishes or I would be willing to come back after the vote.

The CHAIRMAN. I know how busy you are, Senator Allard. It is up to you.

Senator ALLARD. OK, I will go ahead and give my brief testimony.

Mr. Chairman, first of all, I would ask unanimous consent that my prepared remarks be made a part of the record.

The CHAIRMAN. Without objection.

Senator ALLARD. And then, let me just say that this is not a new issue for me. I have been dealing with commercial tour overflight issues at Rocky Mountain National Park for the last 3 years. And I would concur with the comments of the committee members that we have to be careful about a piece of legislation where we try to have a one-size-fits-all approach. I just do not think it is appropriate. We have to recognize that we have a lot of diversity in parks in this country.

The CHAIRMAN. By the way, that is why the legislation calls for the Park Service and the FAA to come together, to meet the unique needs of each park.

Senator ALLARD. Well, let me just say, first of all, that the Rocky Mountain National Park is ready for a permanent ban on commercial tour overflights, with the exceptions that you take care of emergencies. If you have a rock climbing accident, you have got to get a helicopter in there to get somebody out, or some type of medical emergency. And it is a commonsense approach.

My experience has been, to rely on the administration to come up with this solution, you are not going to get an agreement between the FAA and the Park Service. And I would say that this says that the Congress ought to step in, look at the parks on a case-by-case basis, and decide for which parks it is appropriate to have a commercial tour overflight ban and for which ones it is not. Rocky Mountain National Park could be one park that would be a very appropriate park for that type of ban.

We at Rocky Mountain National Park are operating under a temporary ban now that has been administratively put in. What concerns the people in the Rocky Mountain National Park area is that it is temporary and then it comes off, and the first thing you know, you have talk about commercial tour overflights again. It is a very busy park. It is among the top six most-visited parks in the country.

It has some very unique circumstances. It is 60 or 70 miles from a large metropolitan area—in this case, Denver. It has a strong local consensus. And the papers locally editorialize in favor of banning those overflights. It is supported on a bipartisan basis in the Colorado delegation. The local governments support this. And I think it is very appropriate to move ahead.

Now, there are some unique things with Rocky Mountain National Park. It is high altitude. It is surrounded by many peaks that are 13,000 feet high. They are above timber line. And it is a park that has a large visitor capacity in a relatively small, con-

strained area as far as National Parks are concerned. It is about one-eighth the size of Yellowstone National Park and close to a metropolitan area.

In order for helicopter tours—and basically, that is what we are talking about when we are talking about commercial tour overflights—it is going to take a large engine in that particular high altitude to assure safety. It is a park that has a lot of strong winds in it, a lot of sudden weather variations. In order to fly safely in that, you are going to have to have a large engine. And the relatively confined high peaks are pretty much like Glacier National Park.

It simply does not make any sense, from a public safety standpoint or from the uses of that park, to allow the tour overflights. But it gets continually looked at from a commercial basis because of the large visitor numbers that we have that come into the park.

You can implement that ban today and not destroy private property rights, because nobody has a private property right to use that park for commercial tour overflights. So, we can take a very common sense approach as far as Rocky Mountain National Park. It can be made to work. And I would encourage the committee to look very seriously at these parks on a case-by-case basis, something like Rocky Mountain National Park, and address our specific concerns.

[The prepared statement of Senator Allard follows:]

PREPARED STATEMENT OF HON. WAYNE ALLARD, U.S. SENATOR FROM COLORADO

Mr. Chairman: Thank you for allowing me to testify on limiting flights over national parks. I commend the Chairman on his efforts to mitigate the problems presented by scenic overflights at national parks. I have been involved in this issue for 3 years.

Tour overflight disturbances are a growing problem at a number of parks. This is an issue that other Members of Congress have addressed in the past, and will continue to be contentious as long as the natural calm treasured by park visitors is threatened.

The National Park Service is directed by law to protect the natural quiet in our National Parks. The 1916 National Park Service Organic Act states that the park service shall conserve scenery and wildlife and leave the areas "unimpaired for future generations." Two other public laws explicitly state the need to preserve national parks in their natural state, most recently the National Parks Overflights Act of 1987 that notes the adverse impact that overflights have on the natural quiet and experience. The law also insists that parks should be "essentially free from aircraft sound intrusions." In 1996, President Clinton announced his commitment to the peace of our national parks by ordering that agencies protect them against noise intrusions from park overflights.

Furthermore, surveys have indicated that more than 90% of park visitors feel that tranquility is very important, but it is not only the quiet atmosphere that overflights threaten; overflights also have the potential to adversely impact wildlife and other natural resources.

Details of problems are park specific, which is why I would like to address the issue of overflights at Rocky Mountain National Park in Colorado. In particular, I am concerned about proposals for helicopter sightseeing at Rocky Mountain National Park that could seriously detract from the enjoyment of other park visitors and also could have a negative impact on the resources and values of the park itself. I consider myself a seasoned tourist at the park and have been known to commune with nature a bit myself. I value the wildlife and solitude, and I understand fully the concern that commercial tour overflights will impair visitor enjoyment.

Rocky Mountain National Park is a relatively small park in the Rockies, about 70 miles from Denver. The park receives nearly three million visitors each year, almost as many as Yellowstone national park, which is eight times its size. The park is easily accessible, yet continues to provide quiet, solitude, and remoteness to visitors, especially in the backcountry.

Several problems are specific to the mountainous Rocky Mountain National Park. I will directly quote from the National Park Service Report to Congress from September 1994, which states:

No single minimum altitude can be identified for the entire national park system. Minimum altitudes . . . can be useful to eliminate the severest impacts, but unless very large, are unlikely to restore natural quiet.

Clearly the elevation of the Park does not allow a large minimum altitude, therefore, according to the National Park Service, natural quiet is unlikely if overflights are permitted at all. In addition, the terrain, consisting of many 13,000 foot peaks and narrow valleys, coupled with unpredictable weather presents serious safety concerns. Also, the unique terrain of Rocky Mountain National Park would cause air traffic to cumulate over the popular, lower portions of the park as pilots are forced to navigate around the dangerous peaks and high winds.

Not only would the overflights be concentrated directly over the most popular portions of the park, but more powerful, and louder, helicopters must be used to achieve the necessary lift at a high altitude.

In light of these distinctive qualities, one can assess that the best solution to overflight disturbance is a ban on commercial tour flights at Rocky Mountain National Park. Of course, I would expect any ban to apply to commercial tour overflights only, with exceptions granted for emergency flights and commercial airlines and private planes.

A commercial tour overflight ban has wide spread support throughout my state. State and local officials in areas adjacent to the park, including Larimer County, Grand County, and the City of Estes Park have indicated their concerns with flights over the park, and they support a ban. In the last session of Congress the entire Colorado delegation went on record in support of an overflight ban. The governor of Colorado has also expressed a fear shared by many that such disturbances could cause a loss of tourism.

Rocky Mountain National Park has been fortunate enough to be free from overflights to this point, partially because local towns have discouraged companies that might provide such services. At the beginning of this year the FAA issued a temporary ban on sightseeing flights over Rocky Mountain National Park. However, I remain concerned as we await final ruling by the FAA on park overflights and consider the possibility that such low flying aircraft could be permitted in the park.

In 1995, one of our top Denver newspapers editorialized that the FAA should make Rocky Mountain National Park off-limits to low-flying aircraft use, "the sooner the better." Now, two years later, I hope the wait is nearly over for a permanent restriction on scenic overflights.

Members of the committee, thank you for considering my testimony.

The CHAIRMAN. Thank you very much, Senator Allard.

I want to say that this is a strawman to say this is a one-size-fits-all proposal. It simply is not. And if there are any ambiguities concerning that, I would be the first one to change the legislation.

I want to thank the witnesses.

Senator Stevens.

Senator STEVENS. Mr. Chairman, I do agree with you. I do not mean to say that the bill is one-size-fits-all. I just do not want it to be applied to Alaska on that basis.

But I agree exactly with what you said in your previous statement, and I think that is the goal of this committee. And, Senator, of course, if that is what you want in your park, you should have it.

The CHAIRMAN. Thank you very much.

We will reconvene in about 10 minutes.

[Recess.]

The CHAIRMAN. The hearing will come to order.

Our first two witnesses are Ms. Louise Mailett, the acting administrator for Policy, Planning, and International Aviation, Federal Aviation Administration; and Mr. Destry Jarvis, who is the assistant director of External Affairs, the National Park Service.

Welcome to both of you.

Would you please proceed, Ms. Maillett?

STATEMENT OF LOUISE E. MAILLETT, ACTING ASSISTANT ADMINISTRATOR FOR POLICY, PLANNING, AND INTERNATIONAL AVIATION, FEDERAL AVIATION ADMINISTRATION

Ms. MAILLETT. Thank you. Good morning, Mr. Chairman and members of the committee. It is a pleasure to appear before you today to discuss the Federal Aviation Administration's commitment and continuing efforts to promulgate a National Park overflights rule and also address Chairman McCain's bill, S. 268, the National Parks Overflights Act of 1997.

I would like to join the chorus of appreciation for the Chairman's continued leadership concerning National Park overflights and support for our efforts to date.

This Administration has committed significant time and effort to addressing the complex issues before us. There are numerous groups with much at stake that are affected by rules concerning overflights. Many park visitors and those charged with preservation of park resources are disturbed by air traffic over park lands. Those who provide access to park resources from the air, and have done so for years, believe that they have a legitimate stake in continuing their operations, while offering a unique and unparalleled way to view parks.

And, in the case of the Western parks especially, Native Americans often have a direct stake in the impact that flights can have over park lands or adjacent Indian lands. In fact, anyone who values the unique National Park System has a valid concern in an appropriate balancing of the interests that arise with park overflights.

We are fortunate in many ways: first, as I have mentioned, to have, Mr. Chairman, your continued attention and commitment to this issue. Your focus on the Grand Canyon and other National Parks has brought the issues to maturity.

Second, the President has played a direct role in ensuring timely and comprehensive action. At Earth Day last year, the President issued a memorandum directing the continuation and completion of rules for the Grand Canyon, Rocky Mountain National Park and addressing other National Park overflight issues, including the development of a National Park overflights rule.

Third, and also highly significant, has been the strong new partnership that has developed between the FAA and the National Park Service. These two agencies have worked together to develop airspace plans for several specific National Parks and Monuments, such as the Grand Canyon, Rocky Mountain, the Statue of Liberty, and others. These efforts have laid the foundation on which we can build a process for addressing other National Parks and Monuments.

I would like to summarize briefly some of the steps that we have taken in the past and the steps that we are taking now.

As you know, in 1993, Secretary Babbitt and then-Secretary of Transportation Peña established an interagency working group to work and resolve the many difficult issues involved in protecting our National Park resources. That interagency working group re-

mains very active today in addressing and resolving Grand Canyon and National Park overflight issues.

Based on its work, the FAA published three documents on December 31st of last year, in 1996, that we believe are part of an overall strategy to reduce further the impact of aircraft noise on park resources and to assist the parks in achieving substantial restoration of natural quiet in the Grand Canyon. The first of the three pieces that I refer to consists of a final rule, which expands the flight-free areas in the Grand Canyon, and changes special flight rules over the Grand Canyon, and includes a cap on the number of aircraft, as well as a curfew on operations. It is in the early stages of implementation, but it will, we are sure, have a significant effect.

The second document contains proposals for new air tour routes structures, a particularly complex subject, that has brought to light the conflicting interests of the parties.

And the third rule proposes noise limitations for aircraft operations, and constitutes the long-term solution to restoring natural quiet in the Grand Canyon. It provides for the wide use of quieter aircraft and expansion and use of quiet aircraft technology. This is an approach we know that you, Mr. Chairman, strongly advocate.

The notice proposes to establish additional noise limitations to further reduce the impact of aircraft noise in the park. That reduction would be achieved by using a combination of requirements that would limit future use of noisy aircraft and provide incentives for the use of quieter aircraft, both through quiet technology routes and procedures, to encourage operators to purchase quieter aircraft.

Mr. Chairman, this brings us to our current initiative with the Park Service to address National Parks nationwide. We are attempting, and at this point I would say we are succeeding, in extending the partnership approach on rulemaking to the affected parties. On May 19th, Secretary Slater and Secretary Babbitt announced the creation of a National Parks Overflights Working Group to recommend the structure of a proposed rule to ensure the preservation of the natural quiet in our Nation's parks.

In announcing that national working group, Secretary Slater stated that he was confident that the working group will produce a rulemaking document in a fair and a reasonable manner that strikes a balance for all entities involved—the National Park System, air tour operators, and visitors to our National Parks.

This national working group is composed of nine members, representing a balance of air tour operators, general aviation users, other commercial aviation interests, national tour associations, environmental groups, and Native Americans. The group has 100 days from its initial meeting to develop a recommended notice of proposed rulemaking that would define a process for reducing or preventing the adverse effects of commercial air tour operations over units of the National Park System.

To date, that working group has had three meetings. An August meeting is scheduled to be held in Denver next week. The group will make recommendations to the advisory committees of both the FAA and the Park Service. These advisory boards will review the working group recommendations and report to the FAA and the

Park Service. The final report of the working group will be made available to the public when it is reported to these advisory boards.

We also envision public meetings to be held following publication of the NPRM in the Federal Register.

Mr. Chairman, we believe that the National Park Overflights Working Group captures both the spirit and intent of your bill, as well as Senator Akaka's bill, which calls for sufficient opportunity for public comment by air tour operators, environmental organizations and other concerned parties in the development of airspace management plans. When you introduced your bill in February, you stated that you intended to begin a dialog on how we can best promote safety and quiet in our National Parks, and that this bill was a starting point toward meeting this goal.

You also stated that you expected the administration to meet with interested groups and affected communities before implementing any regulations, so that difficult and important issues could be thoroughly considered and addressed, to ensure that any actions taken are appropriate and necessary.

Mr. Chairman, you could not have been more correct. We only have to look at the current litigation over the Grand Canyon rules, in which seemingly each group is pitted against the other, and all three against the government, to see how critical consensus is when dealing with this difficult issue. And we believe that the national working group is building just that consensus to address the issue on a nationwide basis.

The partnership approach developed by Secretary Slater and Secretary Babbitt is the most promising and rational approach for dealing with this issue. While it would be premature at this point to speculate on what the working group's recommendations will be, we do fully expect that the proposal should be process oriented and applicable to any unit of the National Park System where commercial sightseeing air tour operations are identified as having, or potentially having, adverse effects on park resources or the visitor experience.

In addition, the proposal should provide for appropriate public participation at the park level in this process. We believe that together the Park Service and the FAA are well on their way to achieving a national overflights rule which will continue to provide access by air, while maintaining the beauty and unique experience that National Parks afford.

In doing so, we are relying upon the lessons learned and our shared experiences resulting in a final rule for the Grand Canyon. It remains our policy in managing the navigable airspace over these national treasures to exercise leadership in achieving an appropriate balance between efficiency, technological practicability, and environmental concerns, while maintaining the highest level of safety.

In closing, I would like to state that we share the Park Service's view that action on S. 268, your bill, Mr. Chairman, should be deferred until the working group has completed its review, made its recommendations, and we have had the opportunity to issue a NPRM for a National Parks overflight rule based on those recommendations.

This completes my prepared statement, Mr. Chairman, and I would be pleased to respond to any questions you may have.
[The prepared statement of Ms. Maillett follows:]

PREPARED STATEMENT OF LOUISE E. MAILLETT, ACTING ASSISTANT ADMINISTRATOR FOR POLICY, PLANNING, AND INTERNATIONAL AVIATION, FEDERAL AVIATION ADMINISTRATION

Mr. Chairman and Members of the Committee: It is a pleasure to appear before you today to discuss the Federal Aviation Administration's commitment and continuing efforts to promulgate a national parks overflights rule and also to address Chairman McCain's bill, S. 268, the "National Parks Overflights Act of 1997." I would like to express our appreciation for your continued leadership concerning National Park overflights and support for our efforts to date.

This Administration has committed significant time and effort to addressing the complex issues before us. There are numerous groups with much at stake that are affected by rules concerning overflights. Many park visitors and those charged with preservation of park resources are disturbed by air traffic over park lands. Those who provide access to park resources from the air, and have done so for years, believe that they have a legitimate stake in continuing their operations, while offering a unique and unparalleled way to view the parks. And, in the case of western parks especially, Native Americans often have a direct stake in the impact that flights can have over park lands or adjacent Indian lands. In fact, anyone who values the unique and substantial National Park system has a valid interest in an appropriate balancing of the interests that arise with park overflights.

We are fortunate in several factors that have developed over the last decade. First there has been the Chairman's continued attention and commitment to this issue, as reflected in the legislation you sponsored in 1987—the National Parks Overflights Act of 1987. Your focus on Grand Canyon National Park and other national parks has brought the issues to maturity.

Second, the President has played a direct role in ensuring timely and comprehensive action. On Earth Day last year (April 22, 1996), the President issued a Memorandum for the Heads of Executive Departments and Agencies directing the continuation and completion of rules for the GCNP, the Rocky Mountain National Park, and other national park overflight issues, including the development of a national parks overflights rule.

Third, and also highly significant, has been the strong new partnership that has developed during this Administration between the FAA and the National Park Service (NPS). The FAA is charged with the efficient and safe management of the nation's airspace, while the Park Service is charged with preserving park resources and providing a high-quality visitor experience. These two agencies have worked together to develop airspace plans for several national parks and monuments such as Grand Canyon National Park, Rocky Mountain National Park, and the Statue of Liberty. These efforts have laid the foundation on which we can build a process for addressing other national parks and monuments. I would like to briefly summarize some of the steps we have taken and our most recent efforts now underway.

In 1993, Secretary of Interior Babbitt and then Secretary of Transportation Peña established an interagency working group to work and resolve the many difficult issues involved in protecting our National Park resources. The interagency working group remains very active today in addressing and resolving GCNP and national parks overflight issues. Based on the work of the interagency group and following direction of the President's April 1996 Memorandum, the FAA published three documents on December 31 that we believe will make major progress toward accomplishing the goal of reducing aviation noise in the GCNP.

The three documents are part of an overall strategy to reduce further the impact of aircraft noise on the park resources and to assist the NPS in achieving substantial restoration of natural quiet in the GCNP. The first consists of a final rule changing special flight rules over GCNP and includes procedures for establishing an overall cap on the number of aircraft involved in park overflights, as well as a curfew on operations. It's in the early stages of implementation but will, we are sure, have a significant effect.

The second document contains proposals for new air tour route structures, a particularly complex subject that has brought to light the conflicting interests of the parties. In addition, the FAA is advocating special precautions to ensure that the new route structures fully protect aviation safety and to assure ample opportunity for achieving training and proficiency before final implementation.

The third rule proposes noise limitations for aircraft operations, and constitutes a long-term solution. It provides for the wide use of quieter air craft and expansion of use of quiet aircraft technology, which is an approach we know you strongly advocate. The notice proposes to establish additional noise limitations to further reduce the impact of aircraft noise on the park. Noise reduction would be achieved by using a combination of requirements that would limit future use of noisier aircraft and provide incentives for the use of quieter aircraft. For example, if an air tour operator invests in a new Category C aircraft, which is the quietest aircraft available, that operator would not be subject to a cap on operations, thereby rewarding the air tour operator for making the investment in quiet technology.

Mr. Chairman, this brings us to our current initiative with the Park Service to address National Parks nation-wide. We are attempting and, at this point, I would say we are succeeding, in extending the "partnership" approach on rulemaking to the affected parties. On May 19, Secretary Rodney Slater and Secretary of the Interior Bruce Babbitt announced the creation of a National Parks Overflights Working Group to recommend the structure of a proposed rule to ensure the preservation of the natural quiet in our national parks.

In announcing the nine member national working group, Secretary Slater stated that he was confident that "the working group will produce a rulemaking document in a fair and reasonable manner that strikes a balance for all entities involved—the national park system air tour operators and visitors to our national parks." The national group is specifically tasked to "define the process to reduce or prevent the adverse effects of commercial sightseeing flights over units of the national park system. Factors for consideration in the process may include voluntary, negotiated solutions and an appeal process."

The national working group is composed of nine members representing a balance of air tour operators, both fixed and rotary wing; general aviation users, other commercial aviation interests, national tour associations; environmental groups; and Native Americans. The group has 100 days from its initial meeting to develop a recommended Notice of Proposed Rulemaking (NPRM) that would define a process for reducing or preventing the adverse effects of commercial air tour operations over units of the National Park system.

To date, the working group has held three meetings, May 20–21; June 11–13; and July 8–9. An August meeting is scheduled to be held in Denver next week. The group will make its recommendations to the FAA's Aviation Rulemaking Advisory Committee (ARAC) and the NPS Advisory Board in September. The ARAC and NPS Advisory Board will review the working group recommendations and report to the FAA and NPS. The final report of the working group will be made available to the public when it is reported to the ARAC and the Advisory Board. We also envision public meetings to be held following publication of the NPRM in the Federal Register.

Mr. Chairman, we believe that the National Park Overflights Working Group captures both the spirit and intent of your bill—S. 268—as well as Senator Akaka's bill—S. 291—which calls for sufficient opportunity for public comment by air tour operators, environmental organizations and other concerned parties in the development of airspace management plans.

When you introduced your bill in February, you stated that you intended to begin a dialogue on how we can best promote safety and quiet in our National Parks and that S. 268 was a starting point toward meeting this goal. You also stated that you expected the Administration to meet with interested groups and affected communities before implementing any regulations so that difficult and important issues could be thoroughly considered and addressed to ensure that any actions taken are appropriate and necessary. Mr. Chairman, you could not have been more correct. We only have to look at the current litigation over the Grand Canyon rules, in which seemingly each group is pitted against the other and all three against the government, to see how critical consensus is when dealing with this difficult issue.

We believe that the national working group is building just that consensus. The partnership approach developed by Secretaries Slater and Babbitt is the most promising and rational approach for dealing with this issue. While it would be premature to speculate on what the working group's final recommendation will be, we do fully expect that the proposal should be process oriented and applicable to any unit of the National Park system where commercial sightseeing air tour operations are identified as having, or potentially having, adverse effects on park resources or the visitor experience. In addition, the proposal should provide for appropriate public participation at the park level in the process.

We believe that together the National Park Service (NPS) and the Federal Aviation Administration are well on the way to achieving a national overflights rule which will continue to provide access by air while maintaining the beauty and

unique experience that national parks afford. In doing so, we are relying upon the lessons learned and our shared experiences resulting in a final rule for the GCNP. It remains our policy in managing the navigable airspace over these natural treasures to exercise leadership in achieving an appropriate balance between efficiency, technological practicability, and environmental concerns, while maintaining the highest level of safety.

In closing, I would like to state that we share the National Park Service's view that action on S. 268 should be deferred until the working group has completed its review, made its recommendations, and we have had the opportunity to issue a NPRM for a national parks overflights rule based on those recommendations.

This completes my prepared statement Mr. Chairman, and I would be pleased to respond to any questions you and members of the committee may have at this time.

The CHAIRMAN. Thank you very much, Ms. Maillett.
Mr. Jarvis.

STATEMENT OF DESTRY JARVIS, ASSISTANT DIRECTOR, EXTERNAL AFFAIRS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. JARVIS. Good morning, Mr. Chairman. I, too, want to thank you for the many years—now in its second decade—of support that you have shown for this issue at the Grand Canyon and at other units of the National Park System. Your support for all matters of park management and preservation at Grand Canyon are unmatched in the Senate, I would say. And we appreciate that a great deal.

A number of our National Park System units face problems from commercial air tour overflights. That fact, I think, is well established. And I would say to Senator Gorton, if he were here, that the regulations that our agencies are working on together only relate to commercial air tours, not to general aviation, not to trans-continental commercial air flights, not to administrative use of airplanes, not to search and rescue, not to any other function, activity, or type of aircraft use except commercial air tours.

You well know—I will not go into the kinds of concerns that we have expressed and faced in managing this problem at Grand Canyon. I would have to say, though, that it seems that we are well along in the process at Grand Canyon to developing what we expect will be an effective airspace management regime, through the good offices of the FAA's regulatory process, to manage this use appropriately. We have no intention of proposing a ban on this activity. It is a viable, useful commercial activity, and the National Park Service does not support it at the Grand Canyon.

Your legislation, should it be enacted at some point in the future, would be applicable. And it would basically take the standard of the 1986 Act and apply it elsewhere in the National Park System, which is something that, in the case of the Grand Canyon, we vigorously support.

The administration does, however, recommend that you defer any further action beyond this hearing—which we think is appropriate—on the legislation until the work of this working group has been completed and the two agencies have developed their notice of proposed rulemaking on the national rule, so that we can see where, if any, gaps and overlaps may exist. We look forward to working with you on resolving those differences at that time.

Grand Canyon is at one end of the spectrum of overflight issues. Senator Allard spoke very eloquently about the other end of the

spectrum: a park that has no commercial air tours and for which—because of the park's size and configuration and visitor use patterns on the ground and with the support of many in Colorado—a ban has been recommended and the Park Service has vigorously supported a permanent ban at Rocky Mountain National Park.

Many other parks fall on a spectrum in between those two extremes. We look forward to opportunities, through this national rule, to work out those problems where they exist.

In Hawaii, as was pointed out by Senator Akaka and Congresswoman Mink, we have worked out a reasonably amicable voluntary agreement at Haleakala National Park with the air tour operators that is in effect as long as everyone still agrees that it should stay in effect. But there is, of course, no enforcement mechanism. At Hawaii Volcanoes, we have not been able to achieve a voluntary agreement, and the situation continues to worsen.

At other parks, the conflicts between visitors in the air and visitors on the ground remain a significant concern to the National Park Service. The essence of the situation is, as you pointed out, Mr. Chairman, and others have pointed out, that there is a difference in jurisdiction between our two bureaus. And it necessitates our working together if we are going to resolve any of these problems.

The Park Service, as you well know, regulates essentially every kind of visitor use on the ground. Grand Canyon river runners have a visitor capacity that we prescribe—the number of permittees, the number of user days are prescribed—to preserve both the quality of the environment and the quality of the experience. We are looking for something similar to this from our cooperation with FAA for airspace over National Parks.

I would like to say a couple of other things. Senator Allard pointed out, in the case of Rocky Mountain National Park, a very significant point. It is, in fact, the size and configuration of that park that you can essentially only safely fly for air tour purposes over exactly the same narrow valleys that visitors on the ground are using. So, there is a conflict that is irreconcilable in that park, necessitating the ban.

I would also say that in the State of Alaska, Senator Stevens is exactly correct that these are very large parks, that the Alaska National Interests Lands Act of 1980 made it very clear that the standards of measurement and management were different. That is the law, and that is the law that we strongly support in Alaska.

Aerial access is not only the predominant means of access, but it is the preferred means of access now and in the future. And we would not want to see anything happen that would adversely affect that very appropriate way in which the parks in Alaska are accessed.

If I may, Mr. Chairman, my younger brother is the superintendent of Wrangell-St. Elias National Park—as the Senator pointed out—13 million acres-plus. His senior ranger has been there since the park was established in 1980 and is a pilot and has flown every day that the weather permits so that he can patrol the park. He says that he has probably flown over about 50 percent of the park in the last 17 years. It is a very large place, and I would certainly agree that one can easily find ways to assure that there

are no conflicts between access from the air and visitors on the ground to the parks in Alaska.

As you well know, Mr. Chairman, in the case of the Grand Canyon air tour passengers, 90 percent of them also visit the park on the ground, through bus tours primarily. The South Rim of the Canyon is readily accessible to motorized vehicles, by bus or private vehicle at this point. The Park Service is, in its approved general management plan at the Grand Canyon, trying to take action to reduce the level of noise and congestion on the ground. And we believe that will complement the implementation of the final regulations on overflights from the air, to produce for everyone a higher quality visitor experience.

I would also say that we are very pleased with the direction that the working group has established. The agreements that FAA and the Park Service achieved, setting the stage for the working group, bear repeating and are stated in my written testimony. Four essential points:

That the recommended rule will be designed to facilitate problem prevention at parks where the problem does not yet exist; that the recommended rule will be designed to resolve conflicts at or mitigate adverse effects to those parks where commercial air tours are having an adverse fact on park resources and visitor experience at the present time; will provide for appropriate tribal involvement, where Native American lands adjoin or, in some cases, overlap into units of the National Park System; and that the recommended rule will provide for appropriate public involvement.

We think with those provisions, the working group is set in the right direction. We are optimistic at its outcome. And we would encourage you to watch closely and work with us on the outcome.

On your question about incentives for use of quiet technology, we agree that that is a very appropriate way to go, and think that as each individual park that needs to develop an air tour management plan does so—which we expect to be possible under rules that the FAA will promulgate—that, in cooperation with the FAA, incentives can be built into anything that we do. That can be through access to additional routes, more liberal curfews, more liberal caps, access to parks altogether only by quiet technology, and so forth.

So, we look forward to the use of these incentives to encourage appropriate air tours over National Parks in the management scheme that we and the FAA look forward to working together on.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Jarvis follows:]

PREPARED STATEMENT OF DESTRY JARVIS, ASSISTANT DIRECTOR, EXTERNAL AFFAIRS,
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you to comment on S. 268, the "National Parks Overflights Act of 1997," and to respond to your request to discuss appropriate incentives to promote the use of quiet aircraft technology in the airspace in and around national parks.

S. 268 would require the Secretary of the Interior to submit recommendations to the Federal Aviation Administration (FAA) on actions necessary to restore or preserve natural quiet in parks that may be affected by commercial air tours, where such quiet is integral to the park's natural resources and visitor experience. The recommendations would include proposals for flight-free zones, appropriate flight restrictions, or banning flights within certain national parks as necessary to meet goals defined in the legislation. The legislation directs the FAA to prepare a final plan for the management of traffic in the airspace above any national park based

on these recommendations, and for both agencies to enforce the plan and its requirements through applicable regulations.

As noted below, the National Park Service and the FAA have convened a working group to make recommendations on the overflights issue. We expect to receive the working group's recommendations in September, and the Administration is planning to issue a notice of proposed rulemaking (NPRM) for a nationwide National Park System overflights rule, based on these recommendations, by the end of this year. We ask that Congress defer action on S. 238 until the Administration has had an opportunity to issue the NPRM.

President Clinton, in his Earth Day message of April 22, 1996, stated, "Aircraft flying at low altitudes over national parks can, if not properly managed, mar the natural beauty of the parks and create significant noise problems as well." The President emphasized that "The intrusion of such aircraft can interfere with wildlife (including threatened and endangered species), cultural resources and ceremonies, and visitors' enjoyment of parks, including the ability to experience natural sounds without interruption from mechanical noise."

Mr. Chairman, a number of our National Park System units face air tour overflight problems, including Grand Canyon National Park where the substantial restoration of natural quiet is statutorily mandated. The scale of the issue ranges from Grand Canyon National Park, where over 30 commercial air tour operators provide in excess of 100,000 tour flights per year, to Great Smoky Mountains National Park where one air tour operator conducts multiple low-level overflights daily, to Rocky Mountain National Park where several air tour operators have contemplated operation—and local, county, and state governments have expressed their strong objections. This has led to a temporary ban on commercial air tours over Rocky Mountain National Park until such time as a national rule is developed.

Air sightseeing tours began at the Grand Canyon as early as the 1920s. At low levels of operation they were not perceived of as a problem. The situation began to change after the construction of the Grand Canyon National Park Airport which facilitated the growth of the air tour industry. More recently, greater growth in sightseeing tours has come from companies based in Las Vegas.

After a 1986 mid-air collision which killed 26 people, Grand Canyon became the first national park where air tourism was regulated. Special Federal Aviation Regulations (SFAR 50-2), resulting from the requirements of Public Law 100-91, were the first attempt by the FAA and the National Park Service to address jointly the safety and noise effects associated with commercial air tours. These regulations were effective in addressing safety issues, however, they did not anticipate or address the subsequent dramatic increase in the number of flights over the park; and, as we have come to understand more recently, they did not provide a satisfactory mechanism for involving all the effected parties in the decision-making process.

Safety was also the reason that the FAA imposed a set of emergency regulations (SFAR-71) on high volume commercial air tour operations in Hawaii, and we expect to work with the FAA to have the rules extended. We also will want to work with the FAA to address the waiver policy that has developed for tours over Hawaii Volcanoes National Park and design a mechanism for public involvement in future waiver decisions. We are concerned that some operators have exempted themselves from the SFAR by declaring that they are involved in commercial photography when, in actuality, they are not.

Air tour operations have provoked serious concerns around such parks as Great Smoky Mountains, Glacier, Canyonlands, and others. As I noted earlier, even the prospect of establishing air tour operations in Estes Park, Colorado, on the edge of Rocky Mountain National Park, was sufficient to galvanize citizens of Colorado to request the FAA to establish a ban on commercial air tours over that park.

The National Park Service recognizes that air tours over parks can provide a service to visitors in terms of sightseeing, interpretation and access. At issue is our ability to manage this use by allowing it where appropriate and compatible with resource protection and visitor experience, and prohibiting or restricting it where such use is not compatible. There is a split jurisdiction between airspace and land management and the different programmatic goals the FAA and the National Park Service. The National Park Service regulates (and often limits) recreation and tourism activities in national parks for the purpose of preserving park resources and providing a high-quality, sustainable visitor experience. The FAA regulates national airspace primarily for safety and efficiency of use. Thus, the agencies must diligently work together to address the management of air tours over parks, the quality of the service provided to park visitors, and the impacts these tours may have on park resources and visitors.

The 1995 National Park Service Report to Congress on overflights, required by Public Law 100-91 made a number of pertinent recommendations:

- The FAA should develop an operational rule triggered by the National Park Service to regulate air tour operations where they have or may have adverse effects on national parks.
- The FAA should implement a rule which would provide for the protection of natural quiet in national parks, allowing regulated air tour operations in most, but prohibiting them where the size or configuration of the park or the sensitivity of the park's resources require it.
- All reasonable tools and methods—voluntary agreements, use of quiet aircraft, spatial zoning, altitude restrictions, operations specifications, concession agreements, noise budgets, and limits on times of operations—should be used in establishing appropriate airspace/noise management controls for each park which has air tours.

Even before the 1994 report was completed, Secretary of Transportation Federico Peña and Secretary of the Interior Bruce Babbitt agreed to form an Interagency Working Group (IWG) to explore ways to limit or reduce the impacts from overflights on the national park system. They concurred that increased air tour operations at Grand Canyon and other national parks have significantly diminished the park visitor experience and that measures can and should be adopted to preserve a quality park experience, while providing access to the airspace over national parks.

In his Earth Day memorandum, President Clinton directed the Secretary of Transportation to continue the ongoing development of rules that effectively address the National Parks overflights issue. In order to meet the President's directive, the two agencies have established the National Parks Overflights Working Group (NPOWG). The nine-member group consists of air tour industry representatives, individuals representing environmental interests, and individuals representing the interests of Native Americans. The working group was asked to complete their recommendations within 100 days. So far, three multi-day meetings of the working group have been held, all of which have been open to the public. The Working Group's tasks are to develop a recommended notice of proposed rulemaking (NPRM) which will define a process for reducing or preventing the adverse effects of commercial air tour operations over units of the National Park system. There are four specific expectations of the recommended NPRM shared by the FAA and the National Park Service:

- The recommended rule will be process oriented and applicable to any unit of the National Park System where commercial sightseeing air tour operations are identified as having or potentially having adverse effects on park resources or the visitor experience.
- The recommended rule will be designed to facilitate problem prevention at parks where a problem does not yet exist.
- The recommended rule will be designed to resolve conflicts at or to mitigate adverse effects to those park units where commercial air tour operations are having adverse effects on park resources and visitor experiences.
- The recommended rule will provide for appropriate tribal involvement in the process recommended in the NPRM when tribal lands adjacent to or near national park service units may be impacted by air tour regulations.
- The recommended rule will provide for appropriate public input at the park level.

We anticipate that the Federal Aviation Regulation (FAR) developed by the FAA in consultation with the National Park Service will be based on recommendations from the working group. We expect to receive these recommendations in September.

Mr. Chairman, you also asked us to comment on incentives for the use of quieter or noise-efficient aircraft in park air tour operations. The National Park Service wholeheartedly supports the use of such aircraft to reduce aircraft noise over national parks, and in fact is taking steps to use noise efficient aircraft in its own aircraft operations for park management purposes wherever possible. If airspace management plans are a result of the process to develop a national rule, then we think that many different types of incentives for the use of quieter aircraft technology could be used for specific purposes in individual park plans. For example, in parks currently without air tours, the use of quieter aircraft could be a prerequisite before tour operations would be considered. For parks where air tours already exist, route locations and altitudes, caps, curfews, and other means could be the basis for crafting incentives to make a conversion to quieter aircraft. There may be financial incentives that can be developed, but we feel that it would be more appropriate for the FAA or industry to address this issue.

This concludes my prepared remarks. I appreciate the opportunity to appear before you today and would be happy to answer any of your questions.

The CHAIRMAN. Well, Mr. Jarvis, on your last point, 3 years ago we put in an amendment in the Interior appropriations bill, encouraging the use of quiet technology as a way to assist in alleviating noise. And, very frankly, I am hard pressed to find any action that has been taken as regards to the Grand Canyon or any other proposal on the part of the parks incorporating quiet technology. I am very happy to hear that you support it. I would like to see it, as a number of other things, translated into action rather than rhetoric.

Three years ago we put it in the bill. We wanted quiet technology—it was mandated to be part of the decisionmaking process. So far, we have seen no evidence of it.

Ms. Maillett, is the Grand Canyon safer as a result of the 1987 Act?

Ms. MAILLETT. The work that we have done in the Grand Canyon as a result of the Act, and as a result of working with the air tours operators, has, we believe, improved the safety in the Grand Canyon. I do not have the statistics with me at the moment, but we have been very pleased with our relationship with the operators and our work in the Grand Canyon since implementing the routes, SFAR-50-2. I think a common refrain with the operators is that SFAR-50-2 works, and we would agree with that.

The CHAIRMAN. Well, I would appreciate if you would submit for the record the accident rate. Because, again, as I mentioned to the Congressman from Nevada, everybody is entitled to their opinion, but, I believe, the facts indicate that the accident rate has gone down since we have implemented the 1987 Grand Canyon Overflights Act. And I would appreciate it if you would submit that for the record.

[The information referred to follows:]

NTDB Accidents Occurring In or Near the Area Covered by SFAR 50-2
 (Grand Canyon National Park Special Flight Rules Area)

	1983	1984	1985	1985	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Grand Canyon
Part 135:																
Sightseeing*	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2
Other**	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Part 91:																
Sightseeing*	1	0	1	2	0	0	0	0	0	0	0	0	0	0	0	4
Other**	3	0	0	1	1	1	0	0	0	0	0	0	0	2	1	9
Grand total	5	0	1	3	1	1	1	0	0	0	0	0	0	2	1	15

*The count's stated above reflects accidents occurring in or near the area covered by SFAR 50-2 (Grand Canyon National Park Special Flight Rules Area). Since the NTDB database does not contain identification tags for "lightseeing" hours, all accidents occurring in the area were reviewed in order to classify the accidents as sightseeing or other categories. The other categories include accidents that occurred in or near SFAR 50-2, but could not be identified as being involved in "lightseeing" activities.

**Some accidents occurring on or near airports were not included in the count's because these operations were not conducted under SFAR 50-2. For example, these include accidents occurring as a result of loss of control during landing, loss of engine power in the traffic pattern, on-ground collision with another aircraft during taxiing, etc. Also included were accidents of sightseeing flights where the accident occurred at the completion of the tour, at or on approach to the airport.

The CHAIRMAN. Ms. Maillett, I understand the Park Service wrote you, the FAA, in 1994, asking for information on the number of aircraft operating over the Grand Canyon National Park in order to implement statutory fee requirements. I am told that the FAA never gave the Park Service an answer.

Why would that be the case?

Ms. MAILLETT. Actually, the issue of fees has been under discussion with the Park Service for several years. And part of the discussion was what information we have available and what information would be useful to the Park Service. So, it is not a matter of not responding; it has been a matter of a dialog between the two organizations.

The CHAIRMAN. So you decided not to give them the information?

Ms. MAILLETT. We have very limited information. One of the concerns—in fact, one of the major parts of the Grand Canyon rule that we put into effect in December was reporting requirements, so that we could start getting better data and better analysis of what is actually happening in the Grand Canyon. There is a lot of discussion and a lot of numbers that are thrown around. However, because of the way aircraft operate in the Grand Canyon, the FAA does not have the type of numbers that we would have if these were controlled airspace and controlled operations.

I think the reporting requirements that we put in the rule will help both of us figure out how we move toward natural quiet and provide a better environment in the Grand Canyon.

The CHAIRMAN. When did you put those rules in?

Ms. MAILLETT. Those were in December 31, 1996. That is the final rule in the Grand Canyon. It includes a reporting requirement. That should start in the next month or so. Operators are required to report quarterly after the effective date of the Grand Canyon rule.

The CHAIRMAN. Again, I want to congratulate you on your rapid action, 10 years after the bill was passed. I wonder how many years it will take to implement, for example, the quiet technology requirements. That was only 3 years ago.

I am not happy, nor are people like the Grand Canyon Trust nor other people who have associated themselves with the park for many years, as to the rapidity of taking action on some aspects of the law that was required in 1987. I mean, we imposed fees. We know that that is a requirement. And yet, we cannot figure out how many airplanes and how many flights have flown over the Grand Canyon, so we cannot get the fees.

We know how to count the number of people that enter the park. We know how to figure out how to count the number of people that raft the river. We know how to figure out the number of people that camp in the Grand Canyon. Yet we cannot figure out the number of flights, so we cannot get the funds necessary to implement a lot of these rules and regulations and to keep the park safe.

So, I would hope that you would give some consideration to figuring out how many flights are over the Grand Canyon. And if you cannot figure it out, obviously we will have to act again legislatively and micromanage your work, which we do not choose to do.

the FAA recently asked a Federal court for a 5-mile you revisit that issue. And that is what I just

think that the present litigation will Do you have any handle on that as to the rule

JARVIS. Well, I am not an attorney, I never to what the rule is. We are very confident in rule that is promulgated, and believe that very much in the courts by the Justice Department. But I cannot hazard a guess as to when that matter gets involved.

The Chairman thanks you, Mr. Chairman.

Senator STEVENS. Thank you, Mr. Chairman. Ms. Maillett, in answering the Chairman's question, too. Has it been a problem? Have you allocated the funds that are necessary to know how many flights there are over the Grand Canyon to try and collect these fees?

Ms. MAILLETT. No. Fee collection is the responsibility directly of the Department of the Interior. What we have done in the rule that we issued in December of last year is that we have asked for additional reporting requirements from the operators. That will give us more information, not just for fees, but really to be able to figure out what to do to minimize the impact of air tour operators in the Grand Canyon.

Senator STEVENS. It seems to me those are two problems. And the Chairman is correct about implementing the law that is already on the books. I would hope, if it is a matter of money, that you realize we would be pleased to help you on that.

Ms. MAILLETT. Certainly.

Senator STEVENS. And I think that law ought to be enforced. That is one of the problems we are running into, that this is not being enforced. So, if your assistance is necessary for the Park Service to enforce it, I urge you, let us find a way to get some understanding of who is going to do what and get that done.

Mr. Jarvis, let me tell you, I am pleased to have your comment about my State. One of the problems I have about leaving matters to administrative decision, I think, is well represented by the Wetlands Doctrine. The Wetlands Doctrine, when it was first enunciated by President Bush, was based on statistics for 48 States and on problems that exist in about 17 of those 48 States. Two States were not even in the statistics at the time. But the Wetlands Doctrine became a national doctrine, and has more impact in my State than all of the other 49 States.

Now, we do not want to see administrative decisions come on a national level, particularly from statements made by the President or from Secretaries of the Interior, that apply to all States. Those are one-size-fits-all statements. We would prefer to see legislation.

I hope you understand that I am working with the Chairman, because I think he is entitled to have legislation to protect the interest that he is defending, and several others here.

Is it not possible for you to get together with the FAA and delineate areas, like we do on the military bases? You know we do not have any tours going over military bases. Do you know why? They

are no-fly zones. Our general aviation does not fly over military bases.

It seems to me it would be a fairly simple thing to do what the Chairman wants to do. But the question is that no one is willing to draw the lines in the ground. They are quick enough to draw the lines in the ground in the Forest Service to prevent people from cutting trees because there might be a goshawk or a wolf in there, but they cannot seem to draw them on the ground when it comes to carrying out an Act that has already been passed by Congress.

Now, why is it we cannot get together to do what needs to be done?

Mr. JARVIS. Well, the 1987 Act, in terms of its regulatory scope, was focused on Grand Canyon and the two parks in Hawaii.

Senator STEVENS. Right.

Mr. JARVIS. And it asked us to do a report to Congress, which we submitted in 1995. It included a list of parks in which there were existing or potential problems and conflicts with air tours that required management action. It did not list parks in Alaska to my recollection.

Senator STEVENS. No, I do not think it did. The National Parks Conservation Association does, but your list did not.

Mr. JARVIS. And in our work with the FAA these last 4 years, we are headed toward—as Ms. Maillett pointed out in her testimony—a regulation that will address the problem nationwide. I do not want to presume what might be in that, but it would seem to me appropriate that it include a list of places where we do not want to allow overflights to occur, and provide for dealing with it where they already exist.

Senator STEVENS. Well, I worry about that. Because if you take Katmai, for instance, earlier this year, one of your employees decided that it should be proper to limit visitors to the Brooks River area in Katmai to 50 visitors a day in the September bear viewing season. There are many acres to cover by plane before reaching Brooks River.

Now, if we allow local managers to make decisions like that without guidelines from Congress, I think we are wrong. I would like to see us find some way to get the maps of the park system in here and mark on the ground the areas that should be no-fly zones or at least should be restricted fly zones and carry out the Chairman's intention. But I do not want to see us give you carte blanche and say, "Now wherever you decide to issue a regulation, you may prevent people from flying there."

Now, can't we work something out to where we accomplish the objective that I think most people believe is absolutely necessary, that is, restricted airspace in some instances and prohibited airspaces in others?

If the Rocky Mountain National Park should be prohibited airspace, I am all for that. But to have a national regulation that gives a land manager the right to put that into effect, I am not for that.

Mr. JARVIS. Well, we would not propose that these be Park Service regulations. They would be FAA regulations in all cases.

Senator STEVENS. And once they are in effect, your land managers control it, though, as I understand it.

So, I urge you, somehow or other, to get down and see to it, before this Congress is out. We enforce this 1987 law and pass another bill that meets the objectives of these to say that there should be restricted areas.

I think even the tour industry would agree with that, that people ought to know where they stand. I think if the park service has the authority, the next thing will be the Fish & Wildlife Service would have it, then the Forest Service would have the authority, then the BIA would have the authority, and pretty soon States like mine and Nevada will be under the control of a series of local land managers as to what goes on in the air.

I want to work with the Chairman, and I think the rest of us from the West want to work with the Chairman to get the job done and do it right so people know where they stand, and not leave it up to some administrative determination for someone for 2 or 3 years from now to say, "No, you cannot fly that plane into this place."

I hope we can get together and work that out. I am willing to come back during the recess and sit down and talk to you about maps. I brought mine right there.

Mr. JARVIS. I notice that, Senator.

Senator STEVENS. I do not think many people did, but I would be glad to put it up so they can see it. That is a map of the United States with my State imposed on it, and if you look at it, it goes from the East Coast to the West Coast, from over the Canadian border and down to the Gulf.

When you look at that space and think about giving those land managers the right to tell me where I can fly, you can understand my feeling. I do not think even the Chairman—and I think the Chairman agrees with me, and I think many of the people here who want this bill agree with that.

Mr. JARVIS. And I would clarify or add, Senator Stevens, that we are not looking for any of these regulations to address what I think Alaskans refer to as air taxi service on matters of access into points on the ground, where you have airstrips in many of our parks and private lands inside many parks. These regulations would not be applicable from my point of view.

Senator STEVENS. I hope you do not limit yourself to air service, because many times I fly, and I fly in by helicopter into lakes where I know where people are. There is no airstrip there. Sometimes these are float planes. Many times they use helicopter access.

Mr. JARVIS. I meant to imply application both to fixed wing and to helicopters.

Senator STEVENS. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Stevens.

Senator Bryan.

Senator BRYAN. Thank you very much, Mr. Chairman. I think the Senator from Alaska raises a good concern. As the legislation is crafted, the park manager would have that authority, in my view, not just limited to general aviation. But there is no restriction in terms of the power to make determinations with respect to commercial aviation as well as military aviation.

Now, that may not be the intent of the Chairman, and I certainly do not want to suggest that that is, but I would simply point out that there are some groups who would like that to be. In fact, there is correspondence in our file here indicating that indeed this could be the precedent that would demand the total elimination of all aircraft from the national parks, commercial as well as military overflights, some of which are clearly necessary in order to access commercial airports and military facilities.

But let me just compliment both of you. I think you have given us wise counsel in the sense that these working groups appear to be moving toward a consensus. The constituent members are broadly representing the environmental point of view—which is a very legitimate point of view—the park service point of view, aviation concerns, as well as those in the private sector, and I think that counsel is well made.

I think the point that Senator McCain made needs to be emphasized, and that is my understanding. I think the Senator from Arizona would agree that the evidence is clear. It is overwhelming that, since the legislation that the Senator introduced back in 1987, air safety has improved dramatically.

And, indeed, I believe that the record will reflect that the National Transportation Safety Board recently wrote a report about the air tour industry and stated that the Grand Canyon, with its SFAR system of routes, is a model, and that the incidence of accidents has declined markedly from the period 1988 to 1992. I think that needs to be emphasized for the record. I think the Senator from Arizona and I would agree, and I commend him for his leadership.

The CHAIRMAN. Can I just respond quickly? Senator Bryan, the reason why I reissued it is because the Congressman said inputting planes in corridors and confined spaces is going to increase the accident rate, when obviously the opposite has happened. That is the only reason.

Senator BRYAN. And I appreciate that. The Senator from Arizona is absolutely right. I was helping the Senator to make that point, and I think there are reports that make that point clear. There is absolutely no disagreement, and he deserves credit for that.

Let me just raise a question, if I could, with you, Ms. Maillett. As I understand it, the genesis of the creation of the Federal Aviation Act of 1958 was to, in effect, consolidate air space under a single administration entity for the purposes of enhancing safety rather than having that responsibility diffused over a broad range of Federal agencies. Is my understanding correct?

Ms. MAILLETT. That is absolutely correct, Senator. In 1958, there was increasing concern about the safety of the air space, so, consequently, they decided that there would be one agency that would be responsible for safety, and the same agency had to have the full management of the national air space, and that authority could not be bifurcated as it was before, between the FAA and the military.

Senator BRYAN. And I take it further that since 1958 the volume of air traffic has increased, if not geometrically, each and every year rather dramatically over the intervening 49 years.

Ms. MAILLETT. Yes. There has been significant increase in the traffic.

Senator BRYAN. I would compliment the FAA. I think the FAA has done a good job, and I think that raises one of the concerns that I suggested in my opening testimony, that we want to be very careful not to do anything to diminish the authority of the FAA with respect to the ability to manage these corridors and the air space itself.

Ms. MAILLETT. Thank you. We appreciate that. We take our twin responsibilities of safety in aviation and managing the national air space very seriously.

Senator BRYAN. Now, Mr. Jarvis, it is my understanding that, in 1994, the park service in a report to the Congress identified 98 parks, 35 States, including Senator McCain's State and my own State of Nevada—and also a number of the areas around Washington National Airport of which the Manassas National Battlefield was one—which had identified problems with respect to aircraft overflights.

Now, that is National Park Service. I am not suggesting it is your purpose, but if you, indeed—pursuant to the authority that would be conferred upon you by this legislation—sought to develop on and ad hoc, park-by-park basis a management program which restricted flights over those facilities, that would have an impact of severely limiting, constricting, and altering in a rather dramatic way the air traffic patterns for commercial aircraft in America, military aircraft, and general aviation as well. Would you agree with that observation?

Mr. JARVIS. Well, the report to Congress—the scope of the report to Congress—was overflights of any sort. The scope of the regulations we are working on are commercial air tours. The report was a factually-based report on where there are potential conflicts between aerial activity and park visitors on the ground. We have not and are not seeking regulations by the FAA of those other types of activities.

Senator BRYAN. Mr. Jarvis, I understand. I do not want to cut you off. The point is that you would have the authority under the legislation proposed to do just that.

Mr. JARVIS. No. We would not have the authority as I read the legislation. All the authority remains with the FAA. The park service or the Secretary, or the Director through the Secretary, would make recommendations where air space management over a particular national park was deemed necessary to protect the quality of the experience for the visitor on the ground.

Senator BRYAN. But my point is, it would not be restricted to general aviation. In other words, you would have the authority under this legislation—correct me if I am wrong, Ms. Mailett—the way it is drafted currently to make recommendations to the FAA with respect to military as well as commercial aviation. Am I correct, Ms. Mailett?

Ms. MAILLETT. That is my reading of it.

Senator BRYAN. I am not suggesting that is your purpose, Mr. Jarvis.

Mr. JARVIS. I would say that we, essentially in parallel with the work we engaged in with the FAA in the last few years—we have a similar dialog underway with the military services—just completed a very amicable and successful meeting in Palm Springs,

CA, last week with all the uniformed services that fly to discuss concerns which they share about the management of military flights over national parks, and we are not seeking authority to dictate to them in any fashion.

We do have their ear, I believe, in recognizing that there are occasionally conflicts, both in planned military flights and in unplanned ones over national parks, and we are working together to try to minimize those adverse impacts on the ground. We are not seeking to regulate their flights. We are seeking—

Senator BRYAN. My purpose was not to impugn your motives, but simply to at least assert my understanding of the legislation.

Mr. Chairman, would you indulge me?

The CHAIRMAN. Take as much time as you need.

Senator BRYAN. You have been very kind. You are courteous, as always, to this Senator, and I appreciate that.

Mr. Jarvis, help us to get a factual basis. I understand aircraft noise can have an adverse impact on the park experience. I happen to think that the National Park System in America is the crown jewel of our national recreation experience. I love the national parks. I share a passion for them with the Chairman and other members of this committee, but I think it is helpful for us, as we approach this legislation and look at the situation, to get some predicate.

Now, I am led to believe that the national park individually keeps a visitor survey evaluation account indicating the number of complaints that visitors to the parks make about air traffic noise. Am I correct in that, Mr. Jarvis?

Mr. JARVIS. Not as a general rule, nationally. There are some parks like the Grand Canyon that have done not ongoing and continuous surveys but spot surveys. We have a social science research program that covers between 10 and 20 parks a year, depending upon available funding, which visitor surveys ask a whole variety of questions. I believe the last comprehensive survey at the Grand Canyon that asked specifically about noise was 5 or 6 years ago.

Senator BRYAN. It is my understanding, and correct me if you have a different impression, since the legislation that Senator McCain offered a decade ago, that noise complaints from aircraft had declined about 90 percent. Are you familiar with that statistic, or do you know?

Mr. JARVIS. I believe that is an accurate statistic.

Senator BRYAN. That is an accurate statement?

Mr. JARVIS. Yes.

Senator BRYAN. And finally, let me—you know my understanding is that currently there are about 5 million visitors a year at the Grand Canyon, roughly. Does that sound about right?

Mr. JARVIS. That is right.

Senator BRYAN. And that about three per month have registered complaints about noise levels, and not all of those specifically directed to aircraft noise. Is that your understanding as well?

Mr. JARVIS. Well, we do not have a regular means for people to complain about anything except when they take the initiative to do so, but I think the number that you cite is what comes in of its own volition.

Senator BRYAN. If there is any information that you have to the contrary at a later time, if you might help us supplement the record, if the Chairman has no objection to that, I would appreciate that.

And finally, Mr. Jarvis, although you have indicated that your intention is certainly not to go beyond the limitations that you have described—and again, I am not impugning your motives in any way, but simply to make the point—you are going to be making recommendations as to the national park managers. I do not mean you, specifically, but your colleagues in the National Park Service would have the authority under the legislation to do so.

The FAA is placed in a very limited position. They would have to affirmatively establish, in order to disavow the recommendations that you make, that those recommendations impacted air safety. It kind of changes the burden of proof that they would be required to establish—well, look, I am going to disallow that or not follow that recommendation, because we believe it would impact air safety, and I must say that I think the burden is improperly placed if that is the effect.

But my question, with great due respect—I spent a lot of time, as I said previously, and the interpretive experiences that you and your professional colleagues give is absolutely incredible. I love to go to Gettysburg every year or two and have that experience shared with me. I think it is wonderful.

So, I think that your people are highly trained. I mean, the American public gets an enormous benefit, and we probably do not pay you enough. We do not have enough of you on the job. But with all due respect, what kind of training do you get in your career in terms of air traffic issues? Has that been part of the syllabus that you have as you go through your training programs before being appointed to that level?

Mr. JARVIS. Not me personally, but we do have expertise on our staff in this area—a small amount—and we have a contractor that we use, particularly when it gets into noise metrics and measurement of acoustical matters that we use, and we rely heavily on the expertise of the FAA through our cooperative partnership.

They are the air space management experts; we are the land management experts, and this is an issue where those two come together and need the attention of both agencies.

Senator BRYAN. And the last question—I think Senator Stevens raised a number of concerns, as I understand it. Mr. Jarvis, again, as a result of Senator McCain's legislation, which I applaud him for, there are no fly zones over the Grand Canyon currently.

Mr. JARVIS. Yes, sir. There is about 47 percent of the park currently closed to air tours.

Senator BRYAN. I certainly would not speak for the distinguished Senator from Alaska, but his line of questioning left some question in my own mind as to whether he was aware that there were currently no fly zones that preclude air traffic over—what is it, 47 percent, currently?

Mr. JARVIS. Correct.

Senator BRYAN. And there is no dispute with respect to that.

Mr. JARVIS. There is no dispute.

Ms. MAILLETT. Senator, to clarify that, the no-fly zone will be doubled to 87 percent of the Grand Canyon when our final rule becomes effective. The rule would double the amount of flight-free zone area in the Grand Canyon.

Senator BRYAN. I thank the chair for your indulgence.

The CHAIRMAN. Thank you very much, Senator Bryan, and I want to thank you for your involvement in this issue. I am aware of the importance of the air tour business to your State, and I am very appreciative of the very cooperative spirit that you have displayed on this issue.

Very quickly, Mr. Jarvis, is it not true that we literally did years of study in the Grand Canyon setting up noise monitoring and having the decibel levels—I have seen the maps and the charts and all of that, in conjunction with the FAA and other outside experts trying to reach this “natural quiet” and substantial natural quiet in a lot of the Grand Canyon.

Mr. JARVIS. We have computerized modeling systems that will model the effects of noise, and the extent, how deeply it reaches into certain sections of the park, and so forth, and we are working with the FAA in the assessment of that and the application of it in these regulations that we are working on.

The CHAIRMAN. These are accepted scientific methods, are they not, Ms. Maillett?

Ms. MAILLETT. They are based on standard metrics and standard acoustic modeling. Although with parklands—this is a relatively new area—we are spending a fair amount of time trying to make sure we have a refined approach to this. We have 20 years, as you know, of experience in noise—aviation noise—around airports. We are now trying to use that experience in this area.

The CHAIRMAN. We do not have a Ranger down in the bottom of the Grand Canyon with a microphone saying, “Hey, this is pretty bad.” I mean, we have a very scientific measured and many-year-long procedure that we have been following. Is that not correct, Mr. Jarvis?

Mr. JARVIS. Yes, and the difference here is that the natural sound, the ambient level of noise, is at a much lower level in national parks, by their nature, than anywhere else. The increment that is added by a concentration of aircraft is more significant than it would be in an area where the ambient sound—the background noise, if you will—was higher to begin with, and that is, as Ms. Maillett is pointing out, a new area of research on the application of these acoustical metrics for FAA and the park service.

The CHAIRMAN. Having said that, I do not think you have enough people who are dedicated to this effort, overall. I am told it is about three, but I hope you will. And I am talking about the park service and not the FAA.

The park service is tasked with the responsibility of collecting fees, correct, Mr. Jarvis?

Mr. JARVIS. Yes, sir.

The CHAIRMAN. Last October 1996 we had a hearing in Las Vegas, NV. Senator Bryan was there. It was a very good hearing. There was a man there who spoke—who is an old friend of Senator Stevens, Senator Bryan, and myself, named Bob Broadman—who

ran what in the view of many people think is the most successful airport in America—I regret to say. [Laughter.]

The issue of the fees came up, and I was just leafing through the testimony here of Mr. Broadman—

Mr. JARVIS. Mr. Chairman, if I might, on the collection of the fees, like we do with all other fees, and have either the departing airport or the arriving airport collect it.

The CHAIRMAN. We could easily do that, I think.

Did you ever consider that option that Mr. Broadman, the manager of the McCarran Airport in Las Vegas, made?

Mr. JARVIS. I think this devolves back to the point made earlier, that our respective statutes between our two bureaus do not recognize the authority for this kind of—having them collect fees that are our responsibility.

The CHAIRMAN. Let me tell you, Senator Stevens is right here. He would agree to an amendment, I am sure, on the next appropriations bill that we could fix that. You tell us how we can fix it so that these fees can be most efficiently collected, and I believe—well, Senator Stevens, would you agree to help us on that particular issue?

Senator STEVENS. I would welcome the chance to put one of your riders on my bill. [Laughter.]

The CHAIRMAN. Well, we will do it as a freestanding bill, then. [Laughter.]

Senator STEVENS. Absolutely. We could do that. Mr. Chairman, I did not know about that. I do not see any reason why we cannot collect those, as a matter of fact. And FAA is going to have to get some sort of flight plan out of these guys somewhere.

Ms. MAILLETT. Senator, just as a point of clarification, we do not collect those fees that the gentleman was referring to. He is referring to, I believe, the airport collecting fees from the people using the airport.

The CHAIRMAN. No, collect the fees. What he is saying is, he collects the fees for flights over the Grand Canyon at the departing or arriving airport. According to Mr. Jarvis he does not have that legal authority. It seems to me we could work out legislation that would fix whatever problem there is there. According to Mr. Broadman that is the most efficient way of collecting those fees.

Senator STEVENS. I think he has it already.

Mr. JARVIS. Even the issue of our authority is in litigation. The U.S. District Attorney has brought suit against one company for nonpayment, and there have been countercharges that we have exceeded our authority to collect at all.

The CHAIRMAN. Well, that emphasizes, I guess, the need for legislation to clarify that.

Senator STEVENS. Visit with your solicitor and tell him to give us an amendment. You do it now, because I have entered national parks where you have a contract person collecting those, so you have a right to contract.

Mr. JARVIS. We collect on the ground, and that is undisputed.

What is in dispute is whether, despite the very explicit language in the Omnibus Reconciliation Act of 1994 that authorize this fee collection, it is in dispute as to whether that really was a legal thing for the park service to do. The assertion is that it is FAA's

authority to do it and not the park service's authority. We dispute that, but it is in contention.

Senator BRYAN. Mr. Chairman, could I make an observation? I thank the Chairman again. I think a couple of points need to be made. A good number of the operators are, in fact, paying the fees, as you know, so I would not want the impression left on the record that they are not.

The other point that needs to be made is, I think the fees would clearly be more palatable, and perhaps the Chairman and the distinguished chairman of the Appropriations Committee might agree, if the fees collected actually went to the Grand Canyon. Currently, as you know, that is not the situation, so there is no direct benefit to the Grand Canyon. I think we may, in this rider that our distinguished Chairman is proposing, or in the freestanding bill that will enjoy bipartisan support—

Senator STEVENS. I am not sure I am going to go that far. There are millions of people that go to the Grand Canyon that help support the parks in Alaska. [Laughter.]

Senator BRYAN. The second point that I would like to make—and I think Mr. Jarvis did make the point that there was a Grand Canyon National Park Service visitor survey dated January 1995, which indicated that 66 percent of the visitors did not hear a single aircraft, and 86 percent said aircraft noise did not interfere with their enjoyment of natural quiet. I think that is the report you had reference to in 1995. Am I correct, Mr. Jarvis?

Mr. JARVIS. I believe that is the one.

Senator BRYAN. I thank the Chairman.

The CHAIRMAN. Thank you very much. I thank the witnesses. I thank you for your patience and appreciate the patience of the next panel, who is Mr. Tom Robinson, director of conservation policy at the Grand Canyon Trust, Mr. Phil Pearl, Northwest Regional Director of the National Parks and Conservation Association, Mr. James Petty, President of Air Vegas Airlines, Mr. Richard Larew, Executive Vice President of Era Aviation of Anchorage, Alaska, and Mr. Frank Jensen, President of Helicopter Association International.

Welcome to the witnesses, and I hope we have enough chairs at the table. Mr. Robinson, we will begin with you. Welcome.

STATEMENT OF TOM ROBINSON, DIRECTOR OF CONSERVATION POLICY, GRAND CANYON TRUST

Mr. ROBINSON. Good morning, Mr. Chairman and members of the committee. My name is Tom Robinson. I am Grand Canyon Trust director of conservation policy. The Grand Canyon Trust is a regional organization based in Flagstaff, AZ, dedicated to the conservation of the natural and cultural resources of the Colorado Plateau.

We have been working to protect the natural quiet of our national parks—especially on the plateau, which is home to two dozen units of the National Park System—for more than a decade, almost, but not quite as long as you have, Mr. Chairman.

I would, first of all, like to address the administration comments made here today. I will not be reading completely from my testimony. I do not need to belabor the points that I have already made

in my testimony about the FAA's—in our opinion—less than constructive role in Grand Canyon National Park rulemaking. However, I would like to address the Department of the Interior's comments here today.

It is unbelievable to me that the Secretary of the Interior can request deferring S. 268 when you, Senator McCain, are handing them authority to fix a problem that superintendents and resource managers are literally crying for help on. This is an Administration that purports to stand for national parks, and they seem to be ducking for cover in the face of political opposition when you are trying to help them.

We believe that S. 268 must move forward. We strongly disagree, once again, with the Administration that the action should be deferred pending the outcome of the working group process.

We also do not believe that we can rely on the agencies working things out, based on what we believe is a fairly abysmal track record in Grand Canyon rulemaking. We believe that the Administration is trying to put a pretty good face on really what has been occurring over the last number of years.

You asked specifically how long the litigation would take. In our opinion, one of the best things that could happen for really coming out with a rule, finally, that works, is allowing this litigation to go forward and be heard, and we actually requested an expedited hearing. We were turned down. We do not have a hearing until November.

The Government just came in with a motion requesting a 5-month delay, and it is interesting to note that the principal reason for this request—I think that we have to go back in history a little bit.

The FAA really fundamentally disagreed with the park service over whether there should be a cap on the number of airplanes or the number of operations. The FAA won that battle, and they assured everybody that they knew exactly how many planes were flying, and that, in fact, they had the exact number.

Suddenly, now that number seems to have doubled, and they really do not know how many planes are flying, and that is the principal reason why they are asking for a delay, so they can figure that out. So, that is another 5 months in really allowing a judge to finally rule on this issue.

We are probably, assuming, and I might add that every single group in litigation opposed this motion—air tour operators, ourselves, the tribes. We may be looking at now next April or May until the judge can actually hear the case, never mind actually making the ruling. We will probably go through another season.

The CHAIRMAN. And then it could be appealed.

Mr. ROBINSON. It could be appealed. This could be a very long time before we see something on the ground at the Grand Canyon.

The Grand Canyon Trust strongly supports the National Parks Overflights Act of 1997, because it directs the park service to recommend measures to restore, protect, and prevent impairment of natural quiet in the national parks.

We are all aware that the natural quiet at the Grand Canyon has suffered terribly, indeed, has decreased in the 10 years since the original Overflights Act became law. We must recognize that

this failure is due to the flawed implementation of the law rather than any flaw in the legislation itself, which is a good bill providing a good model.

S. 268 must strengthen and state explicitly the Secretary of Interior's authority, mandate, and legal duty to protect and restore natural quiet at parks throughout the National Park System. Some of our most scenic and remote parks, such as Arches and Canyonlands, are already experiencing pressure from the air tour industry. Already, there are new billboards near Moab, UT, depicting helicopters flying over Delicate Arch, which is within Arches National Park and is the very landform on the State's license plate. Clearly, the rush is on.

Consumer Reports on a cover article recently rated Arches and Canyonlands National Park among the top five parks nationally precisely because visitors found them to be free of noise and crowds.

We support your efforts to promote the use of quiet aircraft technology. Any measures that reduce the amount of noise generated by tour flights may be helpful in protecting natural quiet. However, it is important to note that quiet aircraft are by no means silent.

In many areas of the park system, ambient sound levels are so quiet that they are not detectable by standard measuring equipment. Noise from even the quietest airplanes can travel up to 9 or 10 miles, well within the boundaries of flight-free zones. Any tour flight noise in these areas is unacceptable. We must recognize that other measures, such as operational limits, large flight-free zones, or bans on tour flights, may be necessary.

We believe that S. 268 should be enhanced in a number of ways. First, it should address all units, such as national monuments within the National Park System, where natural quiet has been identified as a significant resource by the park service. Some of these units may some day become national parks, such as happened in Grand Canyon and other parks that were formerly monuments. If natural quiet has not been protected proactively in these units, it may not be recoverable later.

Second, the bill should state explicitly that the Secretary of Interior, through the park service, has the sole authority to determine whether natural quiet is part of the park's natural resources and experience and the responsibility to protect and preserve the natural quiet in the parks.

Third, the bill should require the FAA to implement without change, except for safety reasons, any plan revisions the Secretary deems necessary to accomplish the goals of the Act to preserve and protect natural quiet.

Last, S. 268 must provide for the designation by the park service of flight-free parks in units of the park system that are without tour overflights and where natural quiet must be protected.

I would like to add here that—and as I sense—if this issue is becoming a politically partisan issue, then the American public should know that you, Senator McCain, are on the right side of the protection of our national parks. We applaud your leadership and efforts to protect the serenity and solitude of our parks, not just at Grand Canyon but throughout the park system.

We also thank you for the opportunity to participate today, and look forward to continuing working with you in the future.

I would like to finish by just addressing a couple of other comments I have heard on the panel. First of all, I would like to address Senator Bryan's comments on complaints. We believe at the trust that the number of complaints is a completely irrelevant issue, that the park service has the authority to protect the resources within the park. And if they deem natural quiet as a resource on equal par with other resources such as protecting wildlife, protecting water flow, water quality, air quality, the experience of the river as far as rafters, whatever it is, they should have the authority to do so. If there are 10 people in the backcountry and 8 of them are adversely affected by the constant drone of aircraft engines, then that is legitimate, and it may not be a high number.

The park service actually has the authority to limit the number of people that float the park, the number of people that are in the backcountry—they pretty much have the authority to limit everything for the experience of visitors and for resource protection and the total number of complaints is really not relevant here.

Another issue that came up, and I believe Ms. Mailett mentioned it, is that soon 87 percent of the park will be flight-free, but I should add that that is not noise-free. Noise travels a long way, and right now we have not achieved the mandate of the 1987 Act, and we still will not achieve that, even with that amount of the park being flight-free.

That concludes our comments today. Thank you very much.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF TOM ROBINSON, DIRECTOR OF CONSERVATION POLICY,
GRAND CANYON TRUST

Good afternoon, Mr. Chairman and members of the Committee. Thank you for inviting the Grand Canyon Trust to participate in this hearing today. My name is Tom Robinson, and I am Grand Canyon Trust's Director of Conservation Policy. The Grand Canyon Trust is a regional organization, based in Flagstaff, Arizona, dedicated to the conservation of the natural and cultural resources of the Colorado Plateau. We have been working to protect the natural quiet of our national parks, especially on the Plateau which is home to two dozen units of the National Park System, for more than a decade—almost, but not quite as long, as you have, Mr. Chairman. The Trust welcomes today's opportunity to contribute to the discussion of how best to ensure that the natural quiet and experience of our National Park System are preserved for all to enjoy.

Senator McCain, the Trust applauds your persistent and dedicated leadership on this issue. The bill we are discussing today is modeled on the 1987 National Parks Overflights Act, which you championed. Your steadfast efforts to ensure implementation of that act, in particular Section 3, resulted in the first Aircraft Management Plan for Grand Canyon National Park. The 1987 Act gave unequivocal authority to the Secretary of the Interior to protect and restore natural quiet and to develop an aircraft management plan. The 1997 National Parks Overflights Act builds on this model, recognizing the Department of the Interior and National Park Service as the appropriate federal agencies to make resource management decisions regarding the protection of natural quiet throughout the Park System.

Grand Canyon Trust strongly supports the National Parks Overflights Act of 1997 because it directs the National Park Service to recommend measures to restore, protect, and prevent impairment of natural quiet in the national parks. Replicating the 1987 Act, it requires the Federal Aviation Administration to implement such measures, without change except as necessary to ensure aviation safety. As you stated in Flagstaff in August 1995, Senator McCain, "Congress clearly intended the Park Service to be the lead agency in composing plans to restore natural quiet. The FAA's role is to implement the Park Service's overflight plan, and to modify it only for safety considerations."

This principle is crucially important. The Park Service is our nation's paramount resource protection agency, the keeper of our natural treasures, like the Grand Canyon, Haleakala, the Great Smokies, Everglades, Rocky Mountain, and Yosemite. This bill extends the Park Service's authority to develop an aircraft management plan for any park where the natural quiet resource is, or may be, impaired or threatened. It relies upon the agency with the greatest resource management expertise, the Park Service, to evaluate resource protection needs and recommend resource protection standards and measures. Importantly, it still relies upon the agency with the greatest aviation expertise, the FAA, to implement those measures safely.

Mr. Chairman, many members of this committee, park visitors, the Trust's own members and countless others are undoubtedly aware that natural quiet at the Grand Canyon has suffered terribly, indeed has decreased, in the ten years since the original Overflights Act became law. We must recognize that this failure is due to the flawed implementation of the law, rather than any flaw in the legislation itself, which is a good bill providing a good model. However, despite the clear authority of the Park Service to develop an aircraft management plan and the FAA's clear responsibility to implement it without change, the FAA and air tour operators have consistently undermined the Park Service's plan. The FAA has consistently underestimated the number of tour aircraft, made assumptions in noise modeling that defy the Park Service's definition of natural quiet and therefore overestimated the extent of the park that would achieve the natural quiet standard, and consistently refused to consider operational limits that would do the most to restore the natural quiet of the park. As you are aware, a decade ago, air tour operators testified that the 1967 Overflights Act would put them out of business. Instead, the number of tour flights over the Grand Canyon has more than doubled. Furthermore, the Park Service has been consistently overwhelmed by the FAA in the Park Service's efforts to identify and establish standards for natural quiet and propose and evaluate measures for its protection and restoration. Ten years after passage of the original Overflights Act, the proposed plan is being challenged in court both by environmental groups and tour operators, natural quiet has deteriorated at the park, and the number of air tour flights has more than doubled. To avoid these and other pitfalls in implementation, S. 268 must strengthen and state explicitly the Secretary of the Interior's authority, mandate, and legal duty to protect and restore natural quiet at parks throughout the National Park System.

Once this authority is clear, aircraft management plans developed by the Park Service could prevent the development of conflicts between natural quiet protection needs and aircraft overflights. For example, as part of the development of the General Management Plan at Zion National Park in southern Utah, park managers, in cooperation with air tour operators, have developed voluntary measures to minimize air tour impacts on the park. However, these measures are voluntary, and without legislation such as S. 268, the Park Service does not have the authority to require compliance. In addition, Bryce Canyon National Park is plagued by fixed-wing and helicopter overflights that impair both natural quiet and the visual resource, because they fly below the elevation of the park's rim overlooks. Other parks on the Colorado Plateau, such as Arches and Canyonlands, are threatened by tour overflights. Without S. 268, the Park Service does not have the authority to take action to prevent tour overflight noise impacts at these or other parks throughout the system.

In addition, we support your efforts to promote the use of the quietest aircraft technology available. Any measures that reduce the amount of noise generated by tour flights may be helpful in protecting natural quiet. However, it is important to note that so-called "quiet aircraft" are by no means silent. In many areas of the Park System, ambient sound levels are so quiet that they are not detectable by standard measuring equipment. Any tour flight noise in these areas is an unacceptable intrusion. We must recognize that other measures, such as operational limits, flight-free zones, or bans on tour flights, may be necessary as well.

We believe S. 268 should be enhanced in a number of ways:

- First, it should address all units of the National Park System where natural quiet has been identified as a significant resource by the National Park Service. There are several land management designations administered by the Park Service, including national monuments, wild and scenic rivers, and national seashores, among others. The Park Service must be able to protect natural quiet in these areas as well. Some of them may some day become national parks, such as happened at Grand Canyon. If natural quiet has not been protected proactively in such units, it may not be recoverable later.

- Second, in addressing natural quiet as a "part of the park's natural resources and experience," the bill should state explicitly that the Secretary of the Interior,

through the National Park Service, has the sole authority to determine whether natural quiet is part of the parks natural resources and experience, and the responsibility to protect and preserve that natural quiet in the parks. As noted above, this addition would properly recognize the National Park Service's expertise in the resource management arena.

- Third, the bill requires the Secretary of the Interior to report to Congress on the success of the plan in protecting natural quiet and any recommended revisions needed to accomplish the goals of the act. The bill should require the FAA to implement, without change except for safety reasons, any plan revisions the Secretary deems necessary to accomplish the goals of the act to preserve and protect natural quiet. That is, the bill should state explicitly that Congress intends these measures to succeed, not merely that the agencies need act but once for any given park, regardless of whether that single action accomplishes the mandated goal. We have learned this lesson the hard way at Grand Canyon, where the Park Service has determined that the 1988 Aircraft Management Plan has not restored the natural quiet of the park, yet the FAA maintains it has done all it is required to do under the Overflights Act of 1987.

- Lastly, two other additions would strengthen S. 286. They are: (1) providing for the designation by the Park Service of "Flight-Free Parks" in units of the Park System that are without tour overflights and where natural quiet must be protected; and (2) requiring data collection to enhance management of tour flights, including operators' reporting the number of tour flights they fly, the routes and durations of their flights over park units, and accident rates, as well as investigating the feasibility of requiring automatic flight tracking systems on tour flights to provide altitude and ground location information.

Senator McCain, Grand Canyon Trust applauds your leadership in efforts to protect the serenity and solitude of our national parks, not just at Grand Canyon but throughout the Park System. We thank you for the opportunity to participate today, and look forward to continuing to work with you and the members of the Committee on this important issue.

The CHAIRMAN. Thank you very much, Mr. Robinson.
Mr. Pearl.

STATEMENT OF PHIL PEARL, PACIFIC NORTHWEST REGIONAL DIRECTOR, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. PEARL. Thank you, Mr. Chairman and committee members. My name is Phil Pearl. I am the Pacific Northwest regional director of the National Parks and Conservation Association. NPCA is the only citizen's association dedicated solely to the protection and enhancement of the National Park System. I am also a pilot, aircraft owner, aviation enthusiast, and park advocate.

I want to start off by saying that my recent visit to Grand Canyon National Park was one of a hiker, and I hiked the canyon and listened to aircraft all day, and frankly my experience there was akin to spending the day at my airplane hangar. I was very aware of the noise all day.

What was most interesting about it is that at the end of the day, when I stood at the Angel Overlook with perhaps 100 to 150 people, people were standing there as the sun was setting, as the day was quieting down, and they were whispering to one another. I think that suggests that the American public really does understand the concept of natural quiet, and respects it and respects where they are and where natural quiet should exist.

Senator McCain, I would like to thank you for your sustained leadership on this issue. I would also like to acknowledge Senator Frist, Senator Akaka, Mr. Inouye, on all of your efforts pursuant to this. It is an important problem, and we respect all of your efforts thus far and encourage your continued persistence.

We at the National Parks and Conservation Association strongly support S. 268. This is a problem that started out in 35 parks that we surveyed just 2 or 3 years ago, and in 1996, when we resurveyed, the issue was a problem in 55 parks.

Now, this was an NPCA survey of national park managers, which differs from some of the other surveys that were discussed earlier. Moreover, the number of flights in the last 10 years has more than doubled in Grand Canyon National Park, so we are not only dealing with more parks that have the problem, but we are dealing with more flights in the parks.

Right now, there are about 540 flights per day in Grand Canyon National Park. During daylight hours, figuring 8 hours a day, that represents about one overflight less than every minute, so it is not a small problem, it is a large problem, and it is not limited to the Grand Canyon.

The growth of the problem is deserving of the special attention that the Chairman has put in S. 268. In particular, I would like to spend the rest of my few minutes here describing what we think at NPCA are ways to strengthen the bill, and in the process we will address virtually every comment that was made here today by several of the Senators that oppose the bill.

First, we think that the bill should be amended to address all units of the National Park System, not just national parks, and what we mean by that is not just capital "P" parks, but any unit managed by the National Park System.

As a practical matter, there will not be overflight problems at many of these parks, but we feel it is important to treat the system as a system. Congress instructed the National Park Service to do so, and we believe it is appropriate for Congress to do so as well.

We also, as we learned earlier today, see that there is a clear problem or confusion over what this bill is supposed to apply to. There is confusion that it applies to general aviation or commercial air tours. I think what we need is a clear definition of the types of aircraft we are talking about. It is our understanding that the intent of the legislation is to apply to commercial air tour operators operating over national parks, period. It does not apply to part 91 operators, and was never intended to do so.

Third, we believe that over national park units there should be a creation of special use air space, similar to what Senator Stevens had suggested earlier, where drawing lines in the sand was an important consideration. If we created special use air space over national park units the floor of the special use air space should be at ground level.

The ceiling should be an appropriate level to accommodate transitioning general aviation aircraft, so general aviation would not be a problem, and the exact elevation of that ceiling would be determined on a park-by-park basis based on the highest elevation in the park.

It is also important in that regard to express all altitudes as above mean sea level so that it is easy for a pilot to interpret. One does not have to look at their altimeter and do a math problem to adjust above ground level to find out whether or not they are legal. If it is clearly marked on the charts, and you have a mean sea level

to transition a park at, it is very clear and will not affect general aviation, nor will it be a problem.

In fact, encouraging general aviation to fly a little bit higher over parks is an added safety consideration.

Within the special use air space I have just described, we advocate that essentially anyone transitioning through that special use air space as an air tour operator is a park visitor and should be regulated by the National Park Service as a commercial use of the park. That is, in fact, what they are doing, and they should be treated as such.

The sixth point is that for each special use air space, and only after the NPS—the National Park Service—determines that commercial air tour operations are necessary and appropriate, the National Park Service would prepare flight operations plans on a park-specific basis so that it was not a problem that one solution solves, but there may be a mix of solutions, as has been suggested by some of the committee members.

The focus of the plans, though, should be the commercial air tour operations. However, in some cases there may be special rules that also need to apply to general aviation.

With respect to flight operations plans, we strongly concur with the suggestion that the Secretary of Interior should have specific authority to restrict or prohibit commercial air tour operations within the special use air space at certain times in certain areas and over entire units of the National Park Service.

We believe that the Secretary of Transportation should have the authority to amend these plans only with respect to air safety.

We also believe that the FAA should retain regulatory authority and have full jurisdiction over pilot privileges. However, the National Park Service could have the jurisdiction over commercial use of that special use air space.

The existing commercial air tour operation should be permitted to continue until a date certain, after which park-specific operations will take effect, as we have just described. In cases where there are no existing commercial air tour operations, all operations within the special use air space should be prohibited until park-specific operations or specifications are approved by the Secretaries.

Also, the commercial air tour operations within the special use air space should be required to have a global positioning system or some similar device on board so that they could respect the boundaries of the special use air space and fly accordingly.

Right now, it is a judgment call of enforcement as to whether or not an aircraft is below a recommended or, if we approve a bill like this or the working group is successful, below a certain altitude. A global positioning system would make the pilot very aware of his or her position in the air space.

We also believe that the aircraft operating within the special use air space should be required to have identification markings for easy identification from ground level. That is something that Senator Akaka's bill included.

And what is interesting to me is that on a recent flight up into Canada I noted that the Canadian aeronautical charts have U.S.

national parks' boundaries depicted whereas U.S. aeronautical charts do not.

In closing, the National Parks and Conservation Association believes that natural quiet is, indeed, a park resource worthy of protection, a system-wide approach, and we commend the Chairman for taking the initial steps at doing this, and we look forward to working with you on the specific recommendations I have outlined, which are included in our written testimony.

Thank you.

[The prepared statement of Mr. Pearl follows:]

PREPARED STATEMENT OF PHIL PEARL, PACIFIC NORTHWEST REGIONAL DIRECTOR,
NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. Chairman and members of the Committee, thank you for the opportunity to present the views of the National Parks and Conservation Association (INPCA) on the management of aircraft overflights of the national parks and S. 268, the National Parks Overflights Act of 1997. My name is Phil Pearl. I am the Northwest Regional Director for NPCA, America's only nonprofit citizen organization dedicated solely to protecting, preserving and enhancing the National Park System. I am also an aircraft owner and member of the Aircraft Owners and Pilots Association (AOPA) and the American Bonanza Society.

Before I begin my formal statement, Mr. Chairman, I want to thank you for your sustained interest in this issue for more than a decade. I would also like to express our thanks for your recent support for Grand Canyon National Park in its efforts to collect user fees from commercial air tour operators, as specified by law. Your 1987 National Park Overflights Act is the only piece of legislation to be enacted dealing with the control of the air tour industry's operations over national parks. While the Federal Aviation Administration is still struggling with regulations to implement and enforce the 1987 Act, it remains a landmark piece of legislation.

The National Park Overflights Act of 1997 draws on the strengths of your earlier efforts to address the issue of overflights of the national parks on a systemwide basis. Few actions are more vital to the preservation of the National Park System as it was envisioned by its creators in the years leading up to the National Park Service Organic Act of 1916.

To clarify my testimony at the outset, NPCA believes that the purpose of S. 268 is to establish a framework for monitoring and controlling the operations of air tours over all units of the national park system, with air tours defined as fixed wing or rotorcraft operating over a unit of the park system for hire, and including but not limited to Part 121 and Part 135 operators. We do not believe it is the intent of this legislation to restrict general aviation from transiting a park area at an appropriate altitude.

Two basic principles are paramount as this committee and the broader congress considers S. 268. The first is that the sounds of nature are among the intrinsic elements which combine to form the natural environment within national parks. As such, they are inherent components of the "scenery and the natural and the historic and the wild life therein," which form the core of the National Park Service's conservation mandate. Second is that within units of the National Park System, natural quiet—the opportunity to experience natural sounds—shall be preserved "unimpaired for the enjoyment of future generations." These two principles embody the most fundamental purposes of the National Park Service Organic Act of 1916, and reflect the Act's enduring meaning for the world today.

S. 268 responds to these two basic principles, requiring the National Park Service to recommend actions that will uphold them, and requiring the FAA to enforce NPS recommendations as the agency with the regulatory responsibility over use of the nation's skies. NPCA enthusiastically supports the principles embodied in S. 268.

SCOPE OF OVERFLIGHTS PROBLEMS AT UNITS OF THE NATIONAL PARK SYSTEM

Grand Canyon National Park is popularly recognized as the one park that suffers from a substantial loss of natural quiet within its boundaries. One hundred thousand or more flights a year carry airtour passengers over the rim of the Canyon and into the farthest reaches of the park. While it is still possible for a visitor with a knowledge of flight patterns, a good sense of timing and the willingness to hike into the backcountry to find a sense of tranquillity in the park, the experience of natural

quiet has been all but lost for a visitor to the common points of interest along the Canyon rim.

But the Grand Canyon is by no means the only park at serious risk of losing its natural quiet resource. In 1994 and again in 1996, NPCA surveyed park managers to identify the national park units in the System where overflights are a recognized problem. Every time we have asked the managers, the list of parks has grown. In the last survey, park managers identified 55 national park units adversely affected by airtour overflights. A list of those units is attached to this testimony.

On this list you will find not only the Grand Canyon, but also nearly every park unit on the Colorado Plateau, every unit in the State of Hawaii, and a large number of units across the nation, from Olympic to Dinosaur and Cape Cod to Saguaro. Established at the Grand Canyon in the 1920s, national park tour overflights have burgeoned into an industry unto itself, with its own protective association and an appetite for every park unit with a scenic vista that can be attractively portrayed on a marketing brochure. Next summer, NPCA will repeat the survey of park managers and I fear the list will have grown even longer than the 55 which park managers identified just one year ago. This survey is a powerful statement of the need for legislative action.

Although NPCA's biannual survey explores overflights problems of all kinds in the national parks, it is appropriate that this legislation focuses on problems associated with airtour overflights, "flightseeing" in the industry's own terminology. At some parks military, general aviation, heavy commercial carrier and even government overflights are a concern to park managers. For the most part, however, these flights are transient in nature, entering and exiting the park in a straight path. In contrast, commercial tour overflights concentrate on park vistas and therefore circle, hover or otherwise linger over areas of scenic or historic interest. Frequently these areas are precisely the areas the majority of visitors on the ground seek to experience. Worse, backcountry visitors who expend considerable energy in search of tranquillity are often met at their destination with the drone of aircraft engines and a total loss of the very park experience they are seeking.

Acknowledging that military operations, heavy commercial carrier flights and other aircraft operations have an impact on the preservation of natural quiet at some national parks, the flight characteristics of commercial air-tours and the rapid growth of the airtour industry focusing on national parks make those operations the most severe threat to the preservation of natural quiet in the National Park System. NPCA is gratified that S. 268 addresses tour overflights as the primary focus of this legislation.

LESSONS FROM THE GRAND CANYON EXPERIENCE

Implementation of the 1987 National Parks Overflights Act at the Grand Canyon has provided a compelling example of what can go wrong between passing legislation and implementing regulations in furtherance of the law. In clear language, the 1987 Act gave the Secretary of the Interior the authority to protect and restore natural quiet and to develop an aircraft management plan to achieve those objectives. The 1987 Act further required the Federal Aviation Administration to implement those plans without change, except as necessary to ensure aviation safety.

Despite a straightforward legislative mandate to "substantially restore" natural quiet to the Grand Canyon, ten years later the NPS and FAA are still embroiled in a dispute over how to achieve "substantial restoration." In fact, in the 1994 Advanced Notice of Proposed Rulemaking on park overflights, both agencies acknowledged that natural quiet has steadily eroded in the years since passage of the 1987 Act. According to FAA, between 1988 and 1995 the proportion of the park experiencing natural quiet declined from 43 percent to 31 percent, at the same time the number of annual tourist flights grew from 40,000 to between 105,000 and 200,000.

In light of the experience of implementing the 1987 Overflights Act at the Grand Canyon, it is critical that the 1997 National Park Overflights Act contain language which accomplishes the following: (1) it must explicitly delegate to NPS the authority for determining whether natural quiet is a part of the park's natural resources and experience; (2) it must delegate to NPS the determination of where restrictions should be applied to protect and preserve the natural quiet resource, what kind of restrictions are appropriate, and how those restrictions should be applied.

And (3) the 1997 Act must require that the Federal Aviation Administration implement the NPS recommended plan and any subsequent revisions the Secretary of the Interior deems necessary to accomplish the goal of the 1997 Act to preserve and protect natural quiet without change except for clearly identified safety reasons. Unless FAA can devise, at an individual park, a route structure which both meets NPS

objectives and ensures safety, language should make it explicit that no flights shall take place.

With the final regulations implementing the 1987 Overflights Act the subject of legal challenge by both the conservation community and the Grand Canyon air tour operators, it is in no one's interest to pass legislation for the National Park System which contains any ambiguities about Congress's intent in preserving and protecting natural quiet and the other park values dependent on that quietude in the national parks.

PARK UNITS WITH EMERGING PROBLEMS

Of utmost concern to NPCA is the rate of erosion of natural quiet resulting from the rapid expansion of the airtour industry. While the Grand Canyon, the Hawaii parks and Yosemite were areas of specific concern to Congress when it passed the 1987 Act, I doubt Congress envisioned returning to the issue to find that 55 park units are now "host" to the industry. Bryce, Zion and Dinosaur have recently experienced increases in airtour activity. Black Canyon of the Gunnison is bracing for the emergence of an air tour industry, as is Yellowstone. Devils Tower, a sacred site to the Native American community is also imminently at risk, with the proposed construction of an airport adjacent to the park.

At Rocky Mountain and Great Smoky national parks, the communities surrounding them have risen up to object to the prospect of "hosting" airtour activities. At Rocky Mountain, the objection was so strong that it led the entire congressional delegation to call for a ban on airtour activity before the first operator even began flying. Outside of Great Smoky, Haywood County passed an ordinance specifically designed to keep helicopter air-tours from establishing a foothold in the county.

In point of fact, any and every unit of the National Park System with dramatic features and a scenic vista is at risk. With the exception of the rule expressly protecting Rocky Mountain National Park and the local ordinances around the Smokys, there is nothing to prevent an air-tour operator from commencing flights over any national park unit after acquiring any required certificates from FAA. Even if a park manager determines that low-level tour flights would be incompatible with park resources or the visitor experience, neither the NPS nor FAA have a mechanism for preventing such operation from commencing, regardless of potential damage to natural quiet, the visitor experience, wildlife or cultural values, or other park resources.

As both international and domestic tourist interest in the national parks grows and the economy flourishes, the airtour industry will continue to grow, expanding its reach to more parks with more flights. While an airtour may provide a rewarding (if expensive) experience for a small collection of passengers it comes at the sacrifice of the experience for the millions of visitors on the ground. Bit by bit, parks are becoming more like every place the visitor seeks to escape.

SPECIFIC SUGGESTIONS FOR STRENGTHENING S. 268

The need for legislation like S. 268 is clear. Every year more national parks, national monuments, national historic parks, national lakes and seashores and other types of units endure the drone of airtour engines, with a resulting loss of their natural quiet resource and the experience of tranquillity for the visitor. It is equally clear from the experience of managing the airtour industry at the Grand Canyon that whatever legislation passes must be as specific as possible in delegating to the National Park Service the authority to determine the need for and extent of regulation.

NPCA believes that the approach taken by S. 268 is appropriate. No legislation can specify airspace management plans that are uniformly appropriate for the diversity of units in the National Park System. The National Park Service should be charged with developing individualized airspace management plans which respond to the level of concern of park managers and which serve to uphold the Park Service's Organic Act mandate. The National Parks Airspace Management Act of 1997, introduced by Sen. Akaka as S. 291, outlines a specific series of steps for the NPS and FAA in developing such airspace management plans. INPCA believes this approach has considerable merit and would urge this committee to consider components of S. 291 as it moves toward marking up S. 268.

In addition, we have a variety of highly specific suggestions that would strengthen S. 268 and remove any ambiguity about its intent, purpose or practical effect in preserving the natural quiet resource of units of the National Park System and the park values dependent upon that resource throughout the country. These suggestions include the following:

Establishment of Special Use Airspace

- Section 3 of the legislation should specifically refer to the designation of Special Use Airspace (SUA) for areas which the NPS recommends as flight-free zones, flight-free parks, or other flight restrictions. Legislation should specify that the base of the SUA be ground level and the ceiling be an appropriate mean sea-level (MSL) altitude, and that SUA designation should apply to all units of the National Park System where tour overflights are or have the potential to be problematic.
- All altitudes within the SUA and operations specifications should be expressed as MSL altitudes.
- SUA ceilings should be determined on a park-specific basis, but should be not less than 3,000 feet above ground level (expressed as MSL), based on the highest elevation within the national park unit.
- Section 3 should further specify that the ceiling of the SUA should be designed to comfortably accommodate transitioning general aviation aircraft.
- Section 3 language should specify as rigorously as possible that the Secretary of the Interior has the authority to determine and recommend park-specific operations specifications applicable within the SUA, and that the Secretary of Transportation may revise these specifications only with respect to specifically identified air safety concerns. In other words, language should state that unless FAA can devise a route structure that both meets NPS objectives and ensures safety, no flights shall take place.
- In cases where there are established commercial tour operations as of January 1, 1997 (for example), specify that all operators within the SUA should be allowed to continue until a date certain identified by the Secretary of Interior in consultation with affected operators, after which the park-specific operations specifications take effect.
- In cases where there are no established airtour operations, all operations within the SUA should be prohibited until park-specific operations specifications are approved.

Treatment of Airtours as Commercial Users

- Within the SUA, the legislation should specify that aircraft are conveyors of park visitors and commercial users of the park, subject to park-specific operation specifications determined by the Secretary of the Interior and Secretary of Transportation. Such operations specifications may or may not include provisions for general aviation aircraft to operate within the SUA.
- Enhance Section 3 language providing the Secretary with specific authority to restrict or prohibit commercial operations within the SUA at certain times, within certain areas, and over entire units of the National Park System, subject to enforcement by the Secretary of Transportation.

Approval of Park-Specific Operations Specifications

Section 3(c) should further specify that the preparation of the final plan for the management of air traffic include park-specific operations specifications, subject to approval by the Secretary of the Interior only after confirmation by the Director of the National Park Service and the Secretary of the Interior that the park-specific operations specification: (1) is consistent with the NPS Organic Act mandate and the specific park's enabling legislation, (2) is consistent and compatible with the park's natural, cultural, scenic and aesthetic values, including compatibility with documented park management objectives; (3) will not result in derogation of park resources; (4) will not present a conflict with the specific park's wildlife values; (5) adequately considers and prioritizes visitor and public safety issues; and (6) is in all environmental compliance.

Identification of Aircraft, Airspace

- Include additional criteria for aircraft operating within a SUA, requiring such aircraft to have minimum size identification numbers with clear contrast in colors on the sides and bottom of the fuselage. S. 291 includes similar specific language.
- Include language requiring all aircraft operating within the SUA to be equipped with a pre-programmed global positioning system (GPS) or similar device with an airspace alert system. S. 291 includes similar language.
- Include the requirement that SUAs be clearly depicted on US sectional, terminal and world aeronautical charts. It is noteworthy that Canadian sectional charts more clearly depict US national parks than do US charts. S. 291 includes similar language.

Regulatory Enforcement

S. 268 relegates enforcement authority over airspace management plans to the Federal Aviation Administration. While appropriate as written, this authority

should be further clarified to state that FAA retains enforcement authority over pilot privileges. Commercial privileges for the conveyance of park visitors to or through the national parks should be specifically vested with the National Park Service.

- Finally, S. 268 should specify that the airspace management plans, designation of SUAs and operations specifications and other regulatory determinations be incorporated into one or more joint NPS/FAA rule and Federal Aviation Rule (FAR).

CONCLUSION

S. 268 as currently written represents a strong step toward addressing the need for preservation of natural quiet in the national parks. To avoid the tortuous experience of implementing the 1987 Act, S. 268 should be as specific as possible in the authorities it conveys. The above suggestions represent ways NPCA believes the legislation could be made more specific and more targeted.

Finally, we recommend that language as to the scope of the bill be clarified in two ways. To avoid unwarranted concern that the Act is meant to cover general aviation, heavy commercial carriers, or the military, we recommend that the airtour operations over national park units be identified as the primary subject of the legislation.

In addition, we recommend that the bill refer to "units of the National Park System" instead of "national parks." Currently there are 54 units with the categorical designation of national park. The National Park System incorporates more than a dozen separate and distinct categories of units, a broad variety of which are adversely affected by commercial tour overflights. As happened with the Grand Canyon itself, some of these units which are currently designated as national monuments or other types of units may with time and circumstances be redesignated as national parks. But even if they are not so designated, the key should be the purposes for which the unit was established, the resources it harbors, and the kinds of experiences—including natural quiet—that a visitor can reasonably anticipate, rather than the specific kind of designation a unit has within the National Park System. On both of these points, the current legislative language should be clarified to avoid misinterpretation.

In closing, NPCA would like to thank not only the Chairman for his sustained interest in the issue preservation of the natural quiet resource in the National Park System, but also Sen. Akaka for his similar commitment. The Hawaii parks are second only to the Grand Canyon in the level of impact sustained by the parks and caused by the airtour industry. More recently, both Sen. Frist and Sen. Thompson have expressed concern for the issue, seeing the impact that the industry has had on the Great Smoky Mountains National Park. If we wait for further damage to the national parks, the level of overt support for the preservation of natural quiet in the National Park System will surely grow. But by then it may be too late for action.

Thank you again for the opportunity to present NPCA's views.

NATIONAL PARK UNITS WHERE COMMERCIAL TOUR OVERFLIGHTS ARE A CONCERN TO PARK MANAGERS *

National Park

Badlands NP; Bruce Canyon NP; Canyonlands NP; Capitol Reef NP; Channel Islands NP; Denali NP; Dry Tortugas NP; Everglades NP; Glacier NP; Glacier Bay NP&P; Grand Canyon NP; Great Smoky Mtn NP; Haleakala NP; Hawaii Volcanoes NP; Isle Royale NP; Katmai NP&P; Lake Clark NP&P; Lassen Volcanic NP; Mount Rainier NP; North Cascades NP; Olympic NP; Saguaro NP; Theodore Roosevelt NP; Voyageurs NP; Wrangell-Saint Elias NP; and Zion NP.

National Monument

Capre Krusenstern NM; Dinosaur NM; Gila Cliff Dwellings NM; Montezuma Castle NM; Mount Rushmore NM; Natural Bridges NM; Navajo NM; Pipe Spring NM; Rainbow Bridge NM; and Statue of Liberty NM.

National River

New River Gorge NR.

National Historic Site

Kaloko-Henokohau NHS; and Puukohola Heiau NHS.

*Based on survey results from park field managers in response to NPCA questionnaire on noise from overflight activity, Summer 1996.

Peace Memorial

Perry's Victory & International Peace Memorial.

National Historic Park

Colonial NHP; Kalaupapa NHP; Klondike Gold Rush NHP; and Pu'uhonua o Honaunau NHP.

National Seashore/Lakeshore

Cape Cod NS; Cape Hatteras NS; Cape Lookout NS; and Pictured Rocks NL.

National Recreation Area

Gateway NRA; Glen Canyon NRA; Golden Gate NRA; Lake Chelan NRA; and Lake Mead NRA.

National Military Park

Fredricksburg NMP.

National Preserve

Big Cypress N Pres.

The CHAIRMAN. Thank you very much.

Mr. Jensen.

**STATEMENT OF FRANK JENSEN, PRESIDENT, HELICOPTER
ASSOCIATION INTERNATIONAL**

Mr. JENSEN. Mr. Chairman, members of the committee, thank you for holding these hearings and for inviting me to testify. I request my full testimony be included in the record.

The CHAIRMAN. Without objection, all written statements will be included in the record.

Mr. JENSEN. Thank you, Mr. Chairman. We in the civil helicopter industry are dedicated to safety and to the reduction of avoidable noise not only in the National Park Service but everywhere. Helicopters are among the most environmentally friendly vehicles by which to access our national parks. It is ironic that park service leadership and others oppose this environmental resource.

Helicopter safety is not and never has been an issue in regard to national park overflights. For example, the only fatality that has ever occurred in helicopter tours of the Grand Canyon National Park was in 1986, when a tour helicopter and a tour fixed wing aircraft collided. It has already been alluded to here today that a National Transportation Safety Board review made two findings: (1) that safety was not an issue in aerial tours of Grand Canyon National Park, and (2) that the National Park Service interference in air space management contributed to the 1986 tragedy.

The CHAIRMAN. Say that again.

Mr. JENSEN. That the National Park Service interference in air space management contributed to the 1986 tragedy.

The CHAIRMAN. We did not have a law in 1986.

Mr. JENSEN. This had nothing to do with the law, sir. This was that the National Park Service, just prior to this midair collision, recommended rerouting these air tour routes in such a manner that the pilots were not familiar with the routes, and the accident occurred just days after the rerouting.

The CHAIRMAN. We will be glad to check that out, Mr. Jensen, but since the new corridors have been put in the flight-free zones, the accident rate has gone down. I do not know how the park service could have recommended something that someone would have had to comply with.

The way I remember the accident was the aircraft descended down on top of the helicopter because the pilot of the plane could not see the helicopter and the helicopter could not see above him, so I do not want to waste the time of the committee right now, but I am very familiar with that accident. Go ahead. It was a tragedy.

Mr. JENSEN. That is the only fatal accident in the canyon involving a helicopter. The overall safety record of helicopters nationwide is quite good, and of tour helicopters is about one accident per 100,000 flying hours. We have attached to our written record a summary of helicopter safety statistics showing steady significant improvement.

As to noise abatement, HAI initiated the Fly Neighborly program in 1982 to reduce helicopter noise through voluntary operational measures, and we have also attached information on the Fly Neighborly program.

Senator STEVENS. Pull that mike up to you.

Mr. JENSEN. In regard to noise in the national parks, there are many sources of manmade noise in the parks. There have not been a significant number of complaints in the park as to aircraft noise. Senator Bryan and others have referred to this.

Air tours provide nonpolluting, nondestructive access for persons who may not have the mobility or time or the inclination to hike down the trails and enjoy the beauty of the parks.

We have information on an ongoing analysis of National Park Service data on aircraft overflight sound at the Grand Canyon, and information from this review group shows that the Government noise studies of the Grand Canyon were based on invalid and unscientific assumptions that overstate sound levels and detectability. When these Government errors are corrected, over 95 percent of the park are shown to meet the park service's own definition of natural quiet.

Before this analysis is distributed, we will do something that the Federal agencies did not do. We will submit this study to an independent, certified, respected group for peer review.

It is interesting that while the top echelons of the park service are actively and vigorously condemning air tours, which fly on specified routes and schedules above the rim, helicopters working for the park service make numerous daily flights right down into the canyon, providing assistance to park rangers and performing administrative tasks. These are the helicopters, Mr. Chairman, that visitors to the canyon see and hear, not the tour aircraft, which are a mile higher.

There was an interesting segment on the CBS television program 48 Hours titled, The Grand Canyon, Dangerous and Endangered. They spoke of 383 helicopter search and rescue missions in the canyon in 1 year, and each of these involves a lot of low flying and slow flying into the canyon and into the gullies, along the river.

The CHAIRMAN. Surely you think that is appropriate.

Mr. JENSEN. Of course. They spoke of five helicopter EMS missions going on at one instant. They talked of five hikers being evacuated by helicopters in 1 day because of minor health problems. They did not speak of something else that happens, and that is the law enforcement rangers evacuate substance abusers and others by

helicopter, and so this is another case where the park service is correctly using helicopters.

And, by the way, I have seen a recent document dated July 1997. The National Park Service is planning to expand its helibase at Grand Canyon Airport.

So let us be fair about the helicopters. Even if all the air tours are shut down the park service will still have frequent mission-essential flights in order to alleviate human stress and suffering.

Regarding quiet aircraft, Mr. Chairman, we strongly support your position on this. I would like to point out your constituent, McDonnell-Douglas Helicopters in Mesa, Arizona has spent millions of dollars to develop the NOTAR, the no-tail rotor aircraft. Another of your constituents, Mr. Elling Halvorson, has invested his own money to develop the Whisper Jet Helicopter, which is extremely quiet. Bell Helicopter Textron has installed quiet cruise technology in its latest state-of-the-art helicopter, the Bell 407.

In summary, Mr. Chairman, HAI strongly supports aviation safety and reduced noise. We encourage the availability of quiet aircraft engines, and we cooperate with all who are genuinely interested in preserving our national heritage. Our common goal must be, as has been alluded to here with some of your fellow committee members, to balance the competing interests of diverse park users.

We, too, are dedicated to leaving not even a moccasin print on this Earth. In the words of President Teddy Roosevelt, "We will do nothing to mar the grandeur of our national parks."

Thank you, Mr. Chairman.

[The prepared statement of Mr. Jensen follows:]

PREPARED STATEMENT OF FRANK JENSEN, PRESIDENT, HELICOPTER ASSOCIATION
INTERNATIONAL

Mr. Chairman and honored members of the committee: Thank you for holding these hearings, and for inviting me to testify on behalf of the Helicopter Association International (HAI) and the civil helicopter industry. My written testimony has been duly submitted, and I will summarize my remarks.

First, let me state that we in the civil helicopter industry are most dedicated to safety and to the reduction of avoidable noise—not only in our National Parks, but all around the world. There are many sources of man-made noise in the National Park System, including transportation and other sources. Of all the modes of transportation available to park visitors, aircraft are uniquely capable of operating so they separate their noise from places where visitors on the ground congregate. Air-tour aircraft are also unique because they literally do not touch the park or its resources, thus helping the Park Service achieve its mission to protect these resources for future generations. It is ironic that the Park Service leadership wastes its scarce resources to oppose this practical and pro-environment resource.

HAI is a very strong advocate of preserving our natural heritage. We believe that visitors to National Parks should have a reasonable expectation of experiencing natural quiet. We also believe that helicopters are among the most environmentally friendly vehicles by which to access our National Parks. We do advocate, and strongly encourage, the timely development of advanced-technology aircraft that will operate even more quietly. Again, these are needed not only over our national parks, but in many other areas as well.

Helicopter safety is not, and never has been, an issue in regard to national park overflights. The only fatality that has ever occurred in helicopter tours of the Grand Canyon National Park (GCNP) was in 1986 when a tour helicopter and a tour fixed-wing aircraft collided, soon after the National Park Service (NPS) changed the tour routes. Several years later, a National Transportation Safety Board (NTSB) review of aerial tours made two findings: (1) that safety was not an issue on aerial tours of Grand Canyon National Park, and (2) that National Park Service interference in air-space management contributed to the 1986 tragedy.

The overall safety record of tour helicopters, nationwide, is quite good—about one accident per 100,000 flying hours. This is much better than for general aviation across the board. To encourage even greater safety, we would like to see more stringent application of the Federal Aviation Regulations for all aerial transport of paying passengers. Specifically, we would like to see all passenger-carrying aircraft that operate for hire over units of the National Park System conform to the requirements of 14 CFR Part 135 as opposed to the more permissive provisions of 14 CFR Part 91. A summary of helicopter safety statistics is attached, showing steady significant improvement.

As to noise abatement, another HAI priority, HAI initiated the Fly Neighborly Program in 1982. This is a very successful effort to reduce the intensity of helicopter noise through voluntary operational measures such as flying at specified air speeds, altitudes, power settings, rotor speeds, routes and time schedules. Information on HAI's Fly Neighborly Program is also attached.¹

In regard to actual or perceptible aircraft noise in the National Parks—there has not been a significant level of complaints from park visitors. Only 26 persons out of 5 million visitors to the Grand Canyon in 1995 spontaneously complained about seeing or hearing aircraft. This hardly constitutes a mandate to impose further restrictions on aerial tours, or to splinter the nation's airspace system by delegating to land management agencies any aspect or semblance of control of air traffic, whether over the National Parks or elsewhere.

Air tours, even under the restrictions imposed by SFAR 50-2, provided the best of all worlds for the GCNP: non-polluting, non-destructive access is provided by aircraft for persons who may not have the mobility, the time, or the inclination to hike down the trails and observe first-hand the beauty of the Park. Under SFAR 50-2, no-fly zones comprised 44 percent of the GCNP. The new rule, 14 CFR 97 Subpart U, doubles the no-fly zones to include 87 percent of the entire GCNP. Air-tour operators have done an outstanding job of honoring the no-fly provisions. Transient non-tour aircraft, both civil and military, have comprised most of the violations of SFAR 50-2.

There is an ongoing analysis of National Park Service data on air-tour overflight sound at the Grand Canyon. We will be making public statements regarding this analysis in the near future. The report will quote the Park Service's definition of natural quiet, i.e. that "50% of the park is free of noticeable noise from sightseeing flights at least 75% of the time."² We disagree with this definition; however, for convenience and clarity it will be used. We have information from the study group that the government studies were biased and misleading due to several invalid and unscientific assumptions that overstate the sound levels and sound detectability. It is clear that when these government errors are corrected, over 95 percent of the park will meet the Park Service's own definition of "natural quiet" in the busiest month for air tours (July). Before this analysis becomes available for distribution, we will work with an accredited, respected, independent group, to conduct a peer review by acoustic scientists.

It is most difficult to comprehend the actions taken by the Park Service leadership to discourage air tours. Tax-payers' money was spent by the Park Service to print and distribute anti-tour flyers; see attachment 4. Moreover, the Park Service has actively sought to establish a presence within the offices of the FAA; see "Attachment 3,"³ which was part of the documentation, apparently prepared by the Park Service, and provided to anti-aviation groups, who in turn used that document as part of their lawsuit against the FAA. This document proves what HAI concluded years ago, that the Park Service's goals are not merely safety, the environment, or even the preservation of natural quiet. The National Park Service's goals involve expanding its jurisdiction to include airspace management. One particularly avid ally of the Park Service is the National Parks and Conservation Association (NPCA). In a May 20, 1994 letter, the NPCA declared that, "Any aircraft noise in the parks is anathema to the natural experience most visitors seek in the parks. We must begin our fight for the elimination of overflight[s] . . . A victory on park overflights will set a precedent for military and other aircraft disturbances . . ." Attachment 5 is

¹ See attachment 2 of this document.

² REPORT TO CONGRESS: Report on effects of Aircraft Overflights on the National Park System, September 12, 1994.

³ Attachment 3: Draft Proposal for Interagency Working Group: Future FAA-NPS Problem Solving Team (Note: this document is also called Attachment 3 in the environmentalists' court filing.)

⁴ National Parks and Conservation Association letter addressed "Dear Aircraft Noise Activist," May 1994, authored by William J. Chandler, NPCA Director of Conservation Policy.

a copy of this NPCA letter. Furthermore, an NPCA ALERT declares, "that even one overflight can destroy the natural quiet of our national parks (see attachment 6)."⁵

Particularly ironic is that, while the top echelons of the Park Service are actively and vigorously implementing the NPCA's policies and condemning air tours, which fly on specified routes and schedules above the rim, the Park Service has a number of heliports along the trails and on the floor of the Canyon. Helicopters working for the Park Service make numerous daily flights right down into the bottom of the Canyon, providing assistance to park rangers, and performing other administrative tasks. These are the helicopters that visitors to the Canyon's backcountry see and hear—not the tour aircraft, which are at least a mile higher. I have talked to recent hikers who spent days walking along the trails in the bottom of the Canyon, and none of them saw or heard any tour aircraft.

A 1991 television segment on the CBS program 48 Hours, titled "The Grand Canyon—Dangerous and Endangered," showed just how important these Park Service helicopters are for alleviating distress, enforcing the law, rescuing injured backcountry users, and providing logistical support within the GCNP, and how often they are called into action for these vital missions. In the film, footage was shown of the Park Service's "Grand Canyon Heli-Base," and of a helipad atop the residence of Mr. Bruce Aiken, custodian of the Grand Canyon water supply. The narrator spoke of 383 helicopter search and rescue missions in one year, and of five helicopter medical evacuation missions going on at one instant. They also spoke of five hikers being evacuated by helicopters in one day because of minor health problems. The number of NPS flights into the Canyons has increased each year. It should be noted that search and rescue missions usually entail a great deal of slow and low flying—into the canyons and along stream beds—whereas some of the other missions are accomplished more quickly.

So let's be fair about helicopter noise in the GCNP—even if all air tours are shut down completely, there will still be frequent mission-essential flights ordered by the Park Service, often involving hovering over or landing on the trails and along the banks of the Colorado River. Or are we going to consider a bit of transitory noise too much of a price to pay to rescue disabled, ill or injured persons?

The facts are, that air tour operators have gone to extreme measures to accommodate other park users. For example, Mr. Chairman, hundreds of your constituents work for McDonnell Douglas Helicopters in Mesa, Arizona. McDonnell Douglas has spent many millions of research dollars to develop technology that would eliminate helicopter tail rotors, known to cause much of the perceptible aircraft sound. This design is called NOTAR (no tail rotor). Two and one half years ago, before the NOTAR design was ready for operational use, your constituent, Mr. Ron Williams, the proprietor of AirStar, deposited \$40,000 so he could be the first one to deploy this technology at the Grand Canyon. Mr. Williams believes in flying neighborly and he put his money where his words are.

Another of your constituents, Mr. Chairman, is Mr. Elling Halvorson. Mr. Halvorson has invested millions of his own dollars in developing the Whisper Jet helicopter. He took vintage but sturdy Sikorsky S55T airframes, installed turbine engines, special mufflers, newly developed gear boxes, and redesigned new rotor heads. I stood on the ground as the Whisper Jet flew by at 500', 1,000', and 1,500'. This aircraft is astonishingly quiet and is in the process of FAA certification. This is just another example of air-tour operators' extreme dedication to flying neighborly and quietly.

By the time Congress reconvenes after the August recess, Bell Textron will have installed its latest quiet cruise technology on its most advanced light helicopter, the Bell 407. Bell representatives state that this new technology, mostly comprised of onboard computer software, will drop the Bell 407's noise by 4 decibels. Dropping just 2 decibels requires a 50% reduction of energy in the sound wave. Bell says that pound for pound, this makes the 407 the quietest helicopter in its class. By August of 1998, Bell Textron will deliver the next generation of quiet rotor blades, which are expected to cut another 4 decibels.

As you can see, both manufacturers and operators are unquestionably dedicated to accommodating the interests of park visitors on the ground. Air-tour professionals resent being vilified by self-proclaimed environmentalists and government agency employees. Mr. Chairman, you, Ron Williams and I were all aviators in Viet Nam. As such, we expected the highest level of professionalism, and were accustomed to helping out when our comrades were under attack. Mr. Chairman, we're under attack today and you are in a key position to help us out.

⁵ National Parks and Conservation Association ALERT regarding FAA Docket No. 27643. It has no authorship and no date.

There is a special working group operating under the provisions of the Aviation Rule-Making Advisory Committee, or ARAC, having representatives of both aviation and anti-aviation groups "all hand-picked by the Park Service and the FAA, studying the matter of National Park overflights. This ARAC group is due to issue its report about the same time that Congress returns from its August recess. It will be quite interesting to see what they decide about overflights, and how the FAA, the Park Service and Congress react to their recommendations. Because it represents a degree of consensus between the affected parties, the ARAC report and the new sound analysis should serve as good starting point for any federal actions governing National Park overflights.

In summary, Mr. Chairman, HAI strongly supports realistic efforts to enhance aviation safety and to reduce noise. We will continue to work with manufacturers to encourage availability of quieter aircraft and engines, and we will continue to co-operate with all others who are genuinely interested in preserving our national heritage. America celebrates diversity which is reflected in the different categories of park users; our goal must be to responsibly balance the competing interests of these diverse groups. We too, are dedicated to leaving not even a moccasin print on this earth, when it is our time to leave. In the words of President Teddy Roosevelt, we will "do nothing to mar the grandeur" of our national parks.

LIST OF ATTACHMENTS—ATTACHMENT NUMBER/TITLE

1. Advancement of Helicopter Safety, 1970 to 1996; Reduced from 30.34 to 8.29 Accidents per 100,000 flying hours.
2. Fly Neighborly Guide, Produced by the Fly Neighborly Committee of the Helicopter Association International; revised February 1993. A summary only is included. For more information, contact HAI Government Affairs representative Bill Wanamaker at (703) 683-4646.
3. Attachment 3: Draft Proposal for Interagency Working Group: Future FAA-NPS Problem Solving Team (Note: this document is also called Attachment 3 in the environmentalists' court filing.)
4. National Park Service document (4 pages in all) with masthead: Proposed Rule-making for Overflights at Grand Canyon National Park. It bears no date but references FAA Docket No. 28537 and states for further information contact Ken Weber, Science Center, Grand Canyon National Park (520) 638-7753 or Maureen Otrogge, Public Affairs, Grand Canyon National Park (520) 683-7779. Uniformed NPS personnel handed these requests to GCNP visitors asking them to advocate the NPS position regarding park overflights. This was done while FAA notices of proposed rulemaking (NPRMs) were still out for public comment.
5. National Parks and Conservation Association letter dated May 20, 1994.
6. National Parks and Conservation Association ALERT with no date and no authorship referencing FAA Docket Number 27643; 2 pages.

Advancement of Helicopter Safety 1970 to 1996

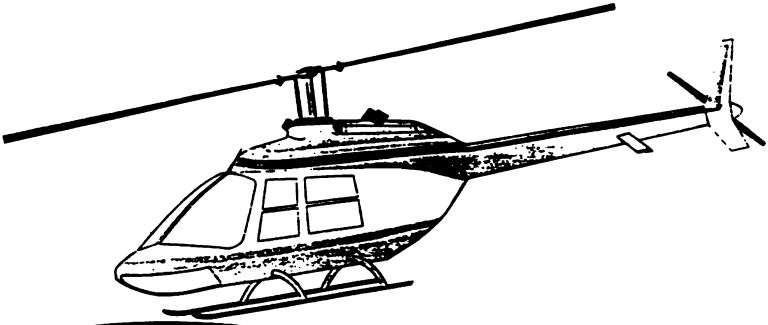
**Reduced from 30.34 to 8.29
Accidents per 100,000 flying hours**

HELICOPTER SAFETY

Year	Hours Flown (Million)	Accidents /100K hrs.
1970	0.87	30.34
1975	1.50	20.60
1980	2.34	11.16
1985	2.154	9.52
1990	2.39	8.15
1995	2.09	7.75
1996	2.11	8.29

Fly Neighborly Guide

Produced by the Fly Neighborly Committee



Revised February 1993

Foreword

The Fly Neighborly program is a voluntary noise reduction program designed to be implemented worldwide by local helicopter operators, large and small. This program includes all types of civil, military and governmental helicopter operations.

In the fall of 1981, the U. S. Federal Aviation Administration (FAA) agreed to withdraw its Notice of Proposed Rulemaking (NPRM) on helicopter noise while technical data were acquired, with the understanding that the helicopter industry would implement a voluntary noise reduction program. We should not, however, consider the Fly Neighborly program as merely a stop-gap measure, cobbled up to preclude federal regulation. After all, the public commonly asks:

- How is technology advancing to make helicopters quieter?
- When will this technology be in daily use?

Clearly, new technology is creating quieter, more advanced equipment every day, and this equipment will eventually be commercially available. Until then, the Fly Neighborly program offers the technical information necessary for helicopter operators to use current equipment as quietly as practical, and to communicate to the public their efforts to make helicopter operations compatible with nearly all land uses.

The Helicopter Association International (HAI) Heliports and Airways Committee (HAC) originally organized this program through the HAC's Fly Neighborly Steering Committee. This committee is composed of members of HAI and governmental representatives, including the FAA, the military, and other associations. Officially launched in February 1982, the program has gained international acceptance. In the U. S. the program has gained the full support of helicopter operators, regional associations, manufacturer, pilots and communities throughout the country. Federal, state and local government agencies have embraced the program and taken an active part in sponsoring Fly Neighborly presentations in conjunction with safety seminars and other activities. Worldwide, the helicopter industry and its related communities are being informed about the Fly Neighborly Program.

Objectives

The Fly Neighborly program addresses noise abatement and public acceptance objectives with programs in the following areas:

- pilot and operator awareness,
- pilot training and indoctrination,
- flight operations planning,

2 *Fly Neighborly Guide*

- public acceptance and safety, and
- sensitivity to the concerns of the community.

About This Guide

The *Fly Neighborly Guide* is published under the auspices of the Helicopter Association International to promote helicopter noise abatement procedures. It is intended to serve as a guide only, and is by no means comprehensive.

Purpose

These guidelines are intended to assist pilots, operators, managers and designated Fly Neighborly officers to establish an effective, self-sustained Fly Neighborly program. The flight procedures and concepts outlined herein must be further tailored to suit local needs, and to ensure that local or regional organizations cooperate to develop a strong, well-organized and disciplined approach to achieving Fly Neighborly objectives.

Organization

This guide is divided into seven sections. The first section deals with pilot training and related noise abatement procedures. The second section describes what operators can do to promote noise abatement operations. The third section is designed to deal with community concerns and issues of public acceptance. An appendix explains the causes of helicopter noise. A glossary defines the acronyms used in this book, and the last two sections provide names, addresses, and phone numbers of helicopter manufacturers and regional affiliate members of HAI.

Administration

The HAI solicits new ideas, comments, and recommendations to improve the program. HAI's Fly Neighborly Committee, Public Relations Advisory Committee (PRAC), Safety Committee, and Heliports Committees are focal points for the development of new technical material in their respective areas. Additional guides and camera-ready copy for Fly Neighborly logos may be obtained from HAI.

The Fly Neighborly committee monitors the Fly Neighborly program, and distributes new information to participants. The committee also maintains a listing of participants and Fly Neighborly support materials.

Individuals, operators, or agencies desiring additional information should contact the Fly Neighborly staff liaison at:

Helicopter Association International
1619 Duke Street

Alexandria, VA 22314 U. S. A.

(703) 683-4646

Fax: (703) 683-4745

Telex: 89-615 HAI

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ATTACHMENT 3

**DRAFT PROPOSAL FOR INTERAGENCY WORKING GROUP:
FUTURE FAA-NPS PROBLEM SOLVING TEAM**

Proposal: The National Park Service (NPS) should assist the Federal Aviation Administration (FAA) in creation of a "center for excellence" within the FAA to handle NPS and other land management agency overflight issues on an ongoing basis. Each agency could contribute 1 FTE to this Center, rotating personnel through this Center every 18-24 months to facilitate problem solving and the spread of expertise in both agencies on how to deal with park and wilderness overflight issues. This might be considered similar in concept to the stationing of military personnel at FAA to address military issues. The creation of a pool of expertise will ultimately enable both agencies to be proactive in resolving these types of issues.

Background: Until fairly recently, the working relationship between FAA and NPS was one of limited contact, and those contacts which did take place were usually of a problem-oriented nature. The only real ongoing working relationship between the two agencies was at Grand Canyon National Park, where Public Law 100-91, which went into effect in 1987, required DOI and DOT to work together to substantially restore natural quiet.

In December of 1993, Transportation (DOT) Secretary Pena and Interior (DOI) Secretary Babbitt jointly established an Interagency Working Group (IWG), with ongoing responsibility for addressing park overflight issues of major significance, starting with the Grand Canyon and the two national parks in Hawaii-Haleakala and Hawaii Volcanoes. In 1994, FAA implemented an emergency rule over Hawaii after a string of crashes, some with fatalities, raised serious safety concerns there.

The President's April 22, 1996, Executive Memorandum required the issuance of a revised commercial air tour rule at Grand Canyon and a new one at Rocky Mountain. FAA assigned people from a variety of functional areas and geographic locations to develop those rules. The NPS had limited representation on the rulemaking teams. The FAA pioneered a new approach with these efforts.

Issue/Problem: While the Interagency Working Group serves as a focal point for, and provides oversight on, park overflight issues, the overwhelming majority of its time has been spent dealing with overflight issues at just a handful of parks--such as Grand Canyon, Rocky Mountain, Hawaii Volcanoes and Haleakala--and there is no specific unit within FAA to deal with NPS/DOI and other land management agency overflight issues on a continuing basis. Both agencies need better representation at the field level to work on park overflight problems. Based on experience to date, it would be well to develop an FAA-NPS team from the start.

Meanwhile, the commercial air tour industry has been growing rapidly in recent years, particularly at the Grand Canyon, Hawaii, and Colorado Plateau. Since air tours are only likely to be commercially viable over areas with scenic geographic features which can be viewed from the air, and many of those areas are managed by the National Park Service and other land management agencies, overflight issues at national park units and other public lands are likely to present ongoing management issues of major complexity, controversy, and public and media interest. Both agencies

have expressed the need to be proactive in resolving these issues before they become politically intractable.

In addition to commercial overflight issues, there are numerous issues related to military training and operational flights which create noise impacts on national park units, and there are other overflight or overflight-related issues such as those involving flights by other Federal agencies (i.e., BLM, USFS, FWS, DEA, INS, etc.); regularly scheduled commercial airline traffic; general aviation; and the building or modification of commercial/general aviation airports in or in close proximity to units of the National Park Service.

While there is considerable support and hope within NPS/DOI for the concept of an FAA unit to deal with overflight issues at national park units and similar lands managed by other agencies, there is much concern whether such a unit would have the funding, staff, visibility, or "clout" within FAA to provide the level of service needed to really solve problems. Viewed from the NPS perspective, it takes enormous effort to get on FAA's agenda or priority list. When the crisis hits, FAA brings people from various organizations and locations together to work on major NPS issues, who must be familiarized with NPS missions, objectives, and responsibilities. When another crisis hit, a new team is assembled, usually with new people who have a need for a new round of education and familiarization with the NPS. This approach provides for little continuity and much inefficiency, as well as misunderstandings. Viewed from an FAA perspective, the NPS commitment to resolving these issues, judged by the difference in the level of resources the two agencies have committed to issue resolution to date, may be suspect.

Recommendation: The FAA should establish, under the "centers of excellence" concept, a small separate, ongoing unit to pro-actively deal with NPS and other land management agency overflight issues. The center would ensure that an NPS/land management agency overflight unit within FAA would have a high enough profile to acquire and maintain the resources it needed to effectively meet the needs of NPS and other agencies. FAA Employees of such a unit would necessarily gain insight into the missions, objectives, organizational cultures, etc., of the land management agencies serviced, while NPS employees of the unit would necessarily gain insight about FAA missions, etc. Also, the unit would provide a degree of continuity which has not been attained to date on park overflights. Since the President's Earth Day memo also called for the development of a national overflights rule, and we understand FAA is currently gearing up for that effort, a center with responsibility for handling NPS overflight issues and those of other land management agencies would be the logical place to assign responsibility for working on its development and, more importantly, its subsequent implementation.

NPS would team with the FAA by staffing FAA's Center for Excellence with appropriate personnel on 18-24 month details who can learn the FAA environment and how to work on problem solving there. As much as FAA needs to learn more about the NPS mission, NPS staff need to learn more about FAA airspace management and how to work in that environment to problem solve.

If approved by the Interagency Working Group, both agencies should seek to address this recommendation in the 1998 or 1999 Budget Cycles.

The CHAIRMAN. Thank you, Mr. Jensen.
Next is Mr. Petty.

STATEMENT OF JAMES PETTY, PRESIDENT, AIR VEGAS AIRLINES; CHAIRMAN, U.S. AIR TOUR ASSOCIATION; AND PRESIDENT, GRAND CANYON AIR TOUR COUNCIL

Mr. PETTY. Thank you. Good morning, Senator McCain, members of the committee. I am Jim Petty, president of Air Vegas, Grand Canyon Air Tour Airline located in Henderson, NV. I am also president of the Grand Canyon Air Tour Council based in Las Vegas, NV, and chairman of the United States Air Tour Association.

At this time, I would like to have your permission to enter the statement of the United States Air Tour Association president, Steve Bassett, at this point in the record.

The CHAIRMAN. Without objection.

Mr. PETTY. I am here today as a representative of the air tour industry, an industry comprised of approximately 275 small businesses who fly air tours in some 17 States.

As in the case of my company, many of these operators are second generation family owned and operated. My full written testimony has been submitted for the record, and I will use the 5 minutes of oral testimony allowed to me to summarize my statement.

I am probably going to vary from part of my statement because I am going to reiterate a lot of what has been said here today, so I will try and make it brief.

The CHAIRMAN. Mr. Petty, take the time that you need. We want to make sure that you feel that your position has been clearly stated before the committee.

Mr. PETTY. Thank you, Senator.

S. 268 is a bill, though perhaps well-intended, that could conceivably create some problems and maybe not solutions. Those concerns of possible problems are detailed in my full written statement, and hopefully some positive alternatives.

Let me briefly reference these concerns. In a very practical sense, S. 268 strips the FAA of its jurisdiction to manage the air space of our national parks and turns such authority over to the National Park Service. I think that has been discussed at length here today, but that is unprecedented in American aviation history, and we want to be on record as supporting that does not happen.

The possibility of exempting noncommercial general aviation, military, and public operations appears to be at a cross-purpose for achieving preservation of natural quiet.

Section 3, subsection 2(a) states, "Aircraft operations in our national park raise serious concerns regarding public safety, including concerns regarding the safety of park users." That is speculative, and not supported by official safety reports or aviation expertise.

Because the statement is unsupportable, it sends a frightening message to the air travelers of this country and the world, both inappropriate and unfair. The safety record of the Grand Canyon air tour industry, as an example, has been commended by the NTSB as exemplary, and that has been on the record several times today.

However, S. 268 makes mention of some practical considerations dealing with quiet aircraft technology in terms of use incentives

and conversion that are more in the order of positive considerations than possible punitive approaches in the case of flight-free zones, flight restrictions, curfews, numbers of flights, and flight bans.

I encourage the incentive approach. In my written testimony I have included a number of positive comments on S. 291, introduced earlier this year by Senator Akaka. It should also be noted that other positive considerations were set forth in the Chairman's statement at the time S. 268 was introduced in the Senate in early February, but not included in the bill itself, that I would like to underscore, and I quote:

I expect the administration in exercising its authority under this bill to meet with interested groups and affected communities, including local chambers of commerce. These groups should be involved in the process before implementing any flight restrictions in order to ensure that proposed actions are appropriate and necessary, and that all important issues have been thoroughly considered and addressed.

Again, this bill is intended to be an open dialog on how we can best achieve our safety and natural quiet goals and, as we all know, we have been involved in that process now for some time, the last 10 years and before.

We support both considerations, and ask that it be included in the final version of S. 268. I am going to reiterate that in May of this year such a dialog was taking place with the formation of the FAA Aviation Rulemaking Advisory Council, the ARAC as it is called, is to address the air tours over national parks issue.

The council is composed of nine members, and it has been given a 100-day mission. That mission is well along the lines of coming to some common goals and terms, and we support the view that the advisory committee be allowed to give its report before any legislation or S. 268 continues.

Again, the nine members involved are two directly involved in the air tour industry, two in other aviation roles—a total of four aviation members all together—four members represent various national park and environmental interests, and one member represents the Native American community.

To date, the ARAC working group has discussed and generally agreed on a set of principles whereby air tour operators, NPS, FAA, environmental groups, and other local interests would convene in a planning process to identify the extent to which air tours at a particular national park would be compatible, and how air tours would fit into the overall park picture.

The group has generally agreed that while it is important that a broad cross-section of Government entities, users, and the general public should participate in the planning process, it is imperative that the FAA maintain absolute jurisdiction over the management of the national air transportation system and retain total regulatory jurisdiction over aviation for both safety as well as the efficiency of the system.

As a result, this group has identified a process that is already in place through operations specifications. As a matter of fact, in the Grand Canyon we operate not only with an SFAR, but each operator is required to have operator specs that we follow on a daily basis that have to be approved by the FAA.

Those have been approved by the FAA in conjunction with the way we fly through the parks, and in conjunction with the

service, and those specifications outline exactly what we do, when we take off, exactly where we fly, how we report, and numerous other items that ensure the safety of the air space.

Senator McCain, in closing I would like to say that, from an air tour industry perspective, we believe that the solutions to the problems that you perceive are being addressed, and we are optimistic that a resolution is at hand, and it will hopefully be acceptable to all points of view even with air tour overflights of the national parks.

I believe President Clinton summed up the spirit of cooperation during a speech at Lake Tahoe this past weekend when he was in my part of the country and he was endorsing Federal aid to help restore the lake's pristine beauty. President Clinton noted one reason for coming Lake Tahoe was to show the Nation that there is a place where environmentalists and businesspeople, ordinary citizens, Republicans and Democrats, tribal leaders, and Government people come together and where everybody is working together in a common cause, recognizing that there cannot be an artificial dividing line preserving our national heritage and growing our economy.

Thank you very much.

[The prepared statement of Mr. Petty follows:]

PREPARED STATEMENT OF JAMES PETTY, PRESIDENT, AIR VEGAS AIRLINES; CHAIRMAN, U.S. AIR TOUR ASSOCIATION; AND PRESIDENT, GRAND CANYON AIR TOUR COUNCIL

Good morning, Senator McCain and Members of the Committee. I am Jim Petty, President of Air Vegas, a Grand Canyon air tour airline located in Henderson, Nevada. I am also Chairman of the Grand Canyon Air Tour Council and United States Air Tour Association.

Mr. Chairman, the air tour industry appreciates the opportunity to submit this statement for the record. Our comments will address issues contained in S. 268 as well as issues raised in S. 291 introduced by Hawaii Senator Daniel Akaka.

The air tour industry, while perhaps not the largest segment of aviation in the U.S., nevertheless, is a significant part of the air transportation and travel tourism industry in the country. We also have a sizable economic impact on the nation and the local communities where our members are based.

This is a brief overview of the air tour industry:

The air tour industry flies an annual average of 2 million passengers. Domestic air tour passengers comprise 40% or 800,000 of the yearly number—foreign air tour passengers account for 60% or 1,200,000. Additionally 30% of this yearly number is comprised of passengers either under 15 years of age or over 50 years. Twelve percent (12%)—240,000—are handicapped air tour passengers and 20%—400,000—chose air tours for health related reasons.

As you can see, air tourism provides a legitimate way for many visitors to experience national parks and other areas and also provides an important opportunity for disabled persons to view our nation's treasures.

I am here today as a representative of that industry—an industry comprised of approximately 275 small businesses who fly air tours in approximately 17 states. As in the case of my company, many of these operators are second generation family owned and operated.

S. 268 is a bill that perhaps well intended, could conceivably create more problems than solutions. Those concerns of possible problems are briefly described here as well as some hopefully positive alternatives.

S. 268 provides that the National Park Service shall make determinations regarding whether or not air tours shall be permitted over a particular national park, what routes and altitudes shall be flown and further provides that NPS also may identify no-fly zones, and shall place caps, curfews and bans on air tour operations. Notably, S. 268 further mandates that the Federal Aviation Administration shall implement "without change" any regulations, requirements or restrictions deemed necessary by the NPS unless the NPS recommendations would adversely impact aviation safety. In a very practical sense, S. 268 strips the FAA of its jurisdiction

to manage the airspace over national parks and turns such authority over to the National Park Service. That is unprecedented in American aviation history.

The possibility of exempting non-commercial general aviation, military and public operations appear to be at cross purposes for achieving restoration or preservation of natural quiet. As a matter of policy, air tour operators should be allowed to abide by the same aircraft sound standards imposed on all other forms of aviation in and around national parks and other similar areas and insists that the noise standards used to determine air tour aircraft sound impact also must apply equally to all other aircraft accessing such airspace—including aircraft operated by governments.

Section 3(2)(a) of the Bill state that "aircraft operations in a national park raise serious concerns regarding public safety, including concerns regarding the safety of park users" is speculative and not supported by official reports or aviation expertise. Because the statement is unsupportable it sends a frightening message to the air travelers of this country and the world—both inappropriate and unfair. The safety record of the Grand Canyon air tour industry has been commended by the National Safety Transportation Board as exemplary.

In defining the terms "substantial restoration of the natural quiet or substantial preservation of the natural quiet and experience of the park", it is recommended that S. 268 be amended to ensure the adoption of a balanced and fair approach to solving safety and noise problems in our national parks, taking into account all relevant factors including the benefits to visitors and to the environment of the activity causing the noise, and the availability of other locations within the park where natural quiet is available.

S. 268 makes mention of some practical considerations dealing with quiet aircraft technology in terms of use incentives and conversion that are more in the order of positive considerations than punitive approaches as in the case of flight free zones, flight restrictions (curfews, number of flights, minimum flight altitudes) and flight bans.

Millions of dollars have been invested by air tour operators over the years in fixed wing aircraft and rotorcraft. Further, many air tour operators have sought either to purchase the quietest aircraft on the market or available at the time or have sought to modify existing aircraft with equipment to make their aircraft more sound efficient.

At the same time, new quiet technology aircraft continue to be designed and developed by aircraft manufacturers and operators for use in the national airspace system.

I enthusiastically support new quiet technology initiatives which seek to develop more sound efficient aircraft, and applaud air tour operators who invest in quiet technology and who seek more noise efficient ways to fly aircraft and provide aerial tours.

Until there are measurable improvements in quiet aircraft technology we oppose the disqualification, elimination or preclusion of any air tour aircraft from any national park or air tour route, public land or other area, however, based on the aircraft's make, model, engine or equipment.

In terms of incentives for use of or conversion to quiet aircraft technology there are several aspects that should be mentioned:

In light of the media legislative and regulatory attention given to the issue of aircraft noise over national parks I believe that all air tour operators will, on their own, be looking to utilize noise abatement methodology when available for competitive reasons, as well as an industry effort to want more attention to minimizing the vocal criticism from certain groups.

There is always the probable benefit of economic incentives. I will only mention several possibilities:

- (1) A scheduled tax credit directory e.g. ten percent investment tax credit
- (2) A percentage rebate of the federal fuel tax on aviation fuel. Again, based on a scheduled tax directory.
- (3) Immediately expense what otherwise might be a capital good.
- (4) Five year amortization of an immediate expense.

COMMENTS ON SENATE BILL 291

Senate Bill 291, introduced by Hawaii Senator Akaka for the most part, takes a more reasonable, realistic and fair approach to managing and regulating air tours over national parks. S. 291 contains five primary elements of special interest to me. I would like to comment on each of them individually.

As articulated by Senator Akaka, S. 291 would:

- (1) . . . specify the respective authorities of the National Park Service (NPS) and Federal Aviation Administration (FAA) in developing and enforcing park overflight policy . . .

Air tour operators have long advocated an approach that would provide for the opportunity for both federal agencies, in consultation with impacted users and publics to jointly develop and implement such a policy. While we believe that the final authority for the regulation and enforcement of aviation must continue to reside with the FAA, a collaborative, negotiated approach to address this issue makes sense.

- (2) . . . establish a process for developing individualized airspace management plans at parks experiencing significant commercial air tour activity . . .

I believe airspace management plans should clearly identify park areas visited by the preponderance of ground visitors as well as areas of cultural, religious and archeological significance, provide for the protection of wildlife as may be necessary, protect some park areas so that visitors may have the opportunity to experience natural quiet, and establish routes, altitudes and other operating procedures guaranteed to ensure that viable air tours still may be conducted.

- (3) . . . provide for the designation of those parks which did not experience commercial air tour activity as of January 1, 1997, as flight-free parks . . .

While there certainly may be some parks within the national park system which simply do not lend themselves to air tour activity, we believe that many parks which currently have no air tours still may be candidates for air tours. Therefore, it is a disservice to the traveling public to arbitrarily ban air tours from any park. Initially, any process should seek to identify those parks where air tours may not be feasible. Following that, if an air tour management plan is properly designed, then air tours could reasonably be expected to integrate satisfactorily with the needs and requirements of other park users.

- (4) . . . establish a new, single standard governing the certification and operation of all commercial air tour operators that conduct flights over national parks . . .

I personally believe that all air tours conducted over national parks should be conducted only by FAA certificated Part 135 operators or higher and that "operational specifications" address the issues of routes, altitudes and other operating procedures on a park by park basis.

- (5) . . . require a variety of safety measures, such as improved aircraft markings, maintenance and accurate aeronautical charts, installation of flight monitoring equipment, and an air tour data base . . .

- (6) . . . establish a National Park Overflight Advisory Council . . .

This may be one of the most important and significant pieces of S. 291. I endorse the concept of establishing a National Park Advisory Council and believe participants on the council should include the Federal Aviation Administration, National Park Service, and tour and aviation industry representatives, representatives from the environmental community, and representatives from the Native American Community.

I believe these recommendations are worthy of consideration except (3) above.

Coming back to S. 268 it should also be noted that other positive considerations were set forth in the Chairman's statement at the time S. 268 was introduced in the Senate in early February, but not included in the bill itself that underscored asked the following and I quote:

I expect the Administration, in exercising its authority under this bill, to meet with interested groups and affected communities, including local Chamber of Commerce. These groups should be involved in the process before implementing any flight restrictions in order to ensure that proposed actions are appropriate and necessary and that all important issues have been thoroughly considered and addressed. Again this bill is intended to begin an open dialogue on how we can best achieve our safety and natural quiet goals.

We support both considerations and ask that they be incorporated into the final revision of S. 268. In fact, in terms of open dialogue I am happy to report that this is already underway.

In May of this year, under the direct mandate of The White House, the federal government (FAA) convened an Aviation Rulemaking Advisory Council (ARAC) Working Group to address the issue of air tours over national parks. The council, composed of nine members, was given a 100-day mission to make recommendations on a few federal regulations on air tours at National Parks. Four members of the working group represent various aviation interests—two are directly involved in the air tour industry, four members represent various National Park Services and/or environmental interests, and one member represents the Native American community.

The working group has held three meeting sessions in Washington, DC—in May, June and July. The next and final meeting session is scheduled for August 4-5 in Denver. With the exception of the first meeting, all meeting sessions have been open to the public and there has been a significant amount of public input into the process.

All members of the working group appear to be finding common ground in their collective quest to design and recommend to the Administration and Congress fair and equitable regulations for air touring over national parks.

With that as a starting point, both sides have sought to design operating procedures for air tour aircraft that would satisfy the interests of all park users.

To date the ARAC working group has discussed and generally agreed on a set of principles whereby air tour operators, National Park Service, Federal Aviation Administration, environmental groups and other local interests would convene in a planning process to identify the extent to which air tours at a particular national park would be compatible and how air tours would fit into the overall park picture.

The group also has generally agreed that, while it is important that a broad cross section of government entities, users and the general public should participate in the planning process, it is imperative that the Federal Aviation Administration (FAA) maintain absolute jurisdiction over the management of the national air transportation system and retain total regulatory jurisdiction over aviation for both the safety as well as the efficiency of the system.

As a result, the working group has identified an existing method of regulatory control within the framework of the FAA known as operational specifications to ensure that all air tours conducted over national parks play by the same set of federal requirements. This method of regulating air tour companies also guarantees that FAA has an enforcement mechanism in place to discipline air tour companies which fail to abide by the rules.

Senator McCain, in closing I would like to say that from the air tour industry perspective, we believe that solutions to the problems that you perceive are being addressed and we are optimistic that a resolution is at hand that will hopefully be acceptable to all of the points of view dealing with air tour overflights of national parks.

The CHAIRMAN. Thank you, Mr. Petty.
Mr. Larew, welcome.

STATEMENT OF RICHARD LAREW, EXECUTIVE VICE PRESIDENT, ERA AVIATION, INC.

Mr. LAREW. Mr. Chairman, thank you for inviting me here to testify today.

The CHAIRMAN. You were strongly recommended by Senator Stevens, as you know, to be here.

Mr. LAREW. Thank you, sir. Thank you, Senator Stevens. I appreciate that.

Era Aviation operates 125 aircraft worldwide. Our corporate headquarters are in Anchorage, AK. We operate aircraft from bases in Alaska, Louisiana, Nevada, The Netherlands, United Kingdom, the People's Republic of China.

Based on our current fleet size we are the third largest helicopter operator in the U.S. and fifth largest operator in the world. We are the largest helicopter operator in Alaska, and with our fixed wing fleet we operate the largest regional airline in Alaska, serving 27 communities throughout the State under a code share with Alaska Airlines.

Next year we celebrate our fiftieth anniversary, which makes us the oldest continuously operating commercial helicopter company in the world.

Temsco Helicopters has asked to be included in this testimony. Temsco, with 34 helicopters, is the largest operator in Southeast Alaska and the second largest in the State.

Between Era and Temsco we account for 99 percent of all helicopter flightseeing aircraft in the State, and approximately 80 percent of all the flightseeing tours conducted.

Flightseeing in Alaska is the most popular experience for visitors. Alaska will have over 1 million visitors this year, and approximately 15 percent of those visitors, or 110,000 tourists, will take flightseeing tours.

The Alaska Visitors Association's latest survey rated flightseeing tours as the most popular experience for visitors to Alaska. Alaska is the largest State in the Union, and Senator Stevens provided a very eloquent map here. Normally we see Alaska in a little block on the side. This puts it a little more in perspective, as approximately one-fifth of the total land mass of the continental U.S., and we stretch pretty much from California to the Great Lakes to Florida.

In Alaska, 238 million acres are owned by the Federal Government, or approximately 69 percent of the State. National parks account for 52 million of those acres, or about 15 percent of the State.

The total acreage for national parks in the United States is about 80 million acres, so Alaska, with 52 million acres, has 65 percent—over 65 percent of all national park acreage in the United States.

The designated wilderness areas in Alaska national parks are about 33 million acres, which accounts for about 91 percent of the total wilderness area in the United States in national parks.

So, as you can see, we are a significant portion of the Federal lands here.

After a careful review of the proposed legislation that you have offered—S. 268—we are opposed to it as it is currently written for the following reasons: First, we feel the legislation is premature. Currently, there is a National Parks Overflight Working Group formed, and working on proposed Federal aviation regulations that address the issues.

Now, this has been brought up several times in the details of this committee, but I have been fortunate enough to attend all those meetings and have participated as much as possible, although I am not on the committee, in that process. I feel that they are making progress, that this will provide the best recommendations for legislation, and by passing legislation now it would probably be premature and inappropriate until the final recommendations are accepted and everybody has their input.

Also in the legislation we have talked about noise and aircraft operations. I am not going to reread those, but the first ones about noise can cause an adverse effect, and aircraft operations or safety concerns. I would like to address a couple of those.

First, we feel some of them are a little bit overstated and lack some factual substance based on the following, and I would like to start with noise. We currently operate helicopters and fixed-wing flightseeing tours over Denali National Park. We have worked voluntarily with the National Park Service over the last 10 years to mitigate any impact to the park, visitors, or wildlife.

In discussions with Denali Park superintendent Steve Martin, last week, we still have no significant adverse effect on natural quiet and the experience of the park to the visitors. On the contrary, we have provided safe, reliable, and environmentally friendly

access for thousands of visitors each year. This was done without any additional trails, roads, or anything that would cause permanent damage to that park.

Era and Temsco both operate helicopter flightseeing tours in Juneau, AK. These tours include a glacier landing in the Tongass National Forest managed by the U.S. Forest Service. We are required to have permits to conduct landings on the glaciers. These permits are mandatory and have several restrictions, such as the number of landings and stand-off distances from specified sensitive areas.

Additionally, Temsco and Era, in cooperation with the U.S. Forest Service and the FAA, have voluntarily established routes and altitudes to be flown to minimize impact and increase safety.

In March 1995, the U.S. Forest Service completed their first environmental impact statement on helicopter glacier tours and helicopter tour sound measurements. After the facts were reviewed, and all the environmental impacts studied, we were allowed to increase our flightseeing tours over the next 5-year permit period.

It is our understanding—and it has been mentioned before about the limited number of noise complaints in the park, and I will not belabor that. We still think that that is not a significant problem because of the minimum number of complaints.

Both Era and Temsco have invested tens of millions of dollars in our modern fleet of helicopters used for flightseeing. At the time of purchase, these aircraft represented the best quiet technology available, and we are continuing to evaluate new developments in this technology. We do not support the disqualification, elimination, or preclusion of any air tour aircraft from any national park based on the aircraft's make, model, engine, or equipment.

On safety—

The CHAIRMAN. Say that again.

Mr. LAREW. We do not support—let me find my page here. We do not support the disqualification, elimination, or preclusion of any air tour aircraft from any national park based on the aircraft's make, model, engine, or equipment.

Under safety, over 1 million passengers have flown on Era and Temsco flightseeing tours in Alaska. None of these flights resulted in injury or death to any of our passengers or persons on the ground.

During the same period throughout the U.S. National Park System there have been numerous deaths and injuries that occurred to ground visitors. These deaths and serious injuries occur almost daily in our State. This is not the case with Alaska flightseeing tours. Every year, injuries and deaths to bears and humans occur as a result of ground users coming in contact with each other. Not so with flightseeing. We only observe the bears. We do not disturb them.

To our knowledge, there has never been an injury to a national park ground user due to an overflight of an aircraft during a flightseeing tour. Our flightseeing safety record in Alaska is so much better than other forms of national park access that it is difficult to compare them.

We in the helicopter flightseeing industry hold safety as our number 1 goal. In every case we meet or exceed current FAA regulations in our helicopter flightseeing operations. We have formed

our own safety organization, TOPS, or Tour Operators Program of Safety, to promote and encourage the highest safety standards.

In Alaska, with over 65 percent of all the national park acreage, access is a key issue. When operated responsibly, flightseeing tours provide the safest and most environmentally friendly means of access.

Mr. Chairman, we encourage you to delay the legislation until the ARAC process is complete, then work on legislation on the ARAC recommendations and substantiated facts and science.

I think in listening to the testimony today—and I have had the advantage of hearing everybody before I spoke—and having attended all the ARAC meetings, most of the issues that have been addressed here have been discussed or incorporated into the recommendations that are being formed. I think that there will be need for legislation when it is done, and I certainly think that this bill could be amended to make it very effective and handle all the concerns.

Thank you.

[The prepared statement of Mr. Larew follows:]

PREPARED STATEMENT OF RICHARD LAREW, EXECUTIVE VICE PRESIDENT,
ERA AVIATION, INC.

Thank you, Mr. Chairman, for inviting us to participate in this hearing and provide testimony on your proposed legislation.

Era Aviation operates 125 aircraft worldwide. Our corporate headquarters is located in Anchorage, Alaska. We currently operate aircraft from the following areas:

Domestic Bases:

Alaska: Anchorage, Deadhorse (Prudhoe Bay), Denali, Juneau, Valdez

Louisiana: Lake Charles and 13 satellite bases.

Nevada: Reno

International Bases:

KLM ERA: Den Helder, The Netherlands, Norwich, England
Shenzhen, Peoples Republic of China

Based on our current fleet size, we are the third largest helicopter operator in the US and fifth largest helicopter operator in the world. We are the largest helicopter operator in Alaska. Currently approximately 50% of our helicopters are based there. With our fixed wing fleet, we operate the largest regional airline in Alaska, serving 27 communities throughout the state under code share with Alaska Airlines. Next year we celebrate our 50th year in business, making Era the oldest continually operating commercial helicopter company in the world.

Temco Helicopters, Inc. has asked to be included in this testimony and their letter of support is attached (Attachment 1). Temco, with 34 helicopters, is the largest helicopter operator in Southeast Alaska, and second largest in the State of Alaska. Between Era and Temco, we account for 99% of all helicopter flightseeing aircraft in the state, and approximately 80% of all the flightseeing tours conducted.

Alaska will have approximately one million visitors this year. Of those, approximately 750,000 are considered tourists, with the balance made up of family and business visitors. Over 110,000 of the tourists visiting Alaska will take flightseeing tours, or approximately 15% of the total tourists. Flightseeing in Alaska is the most popular experience for visitors. In the latest Alaska Visitor's Association exit survey conducted, flightseeing tours received the highest satisfaction rating of all other activities, services or accommodations. (See Attachment 2)

Alaska is the largest state in the Union. At 365 million acres, it is a little over 1/6 of the total land mass of the lower 48 states, and if superimposed over a map of the 48 contiguous states it stretches from California to the Great Lakes to Florida.

In Alaska, 238 million acres are owned by the federal government—approximately 65% of the state. National parks account for 52.7 million of those acres, or 15% of the state. The total acreage for national parks in the USA is 80.6 million. So Alaska, with 52.7 million acres, has 65% of all the national park acreage in the USA. The

designated wilderness areas in Alaska's national parks account for 33.5 million acres of the national parks total acreage, and 91% of all the national parks wilderness acreage in the USA. (See Attachment 3)

After careful review of the proposed legislation, S. 268, we are opposed to it in its entirety for the following reasons:

- This legislation is premature. Currently there is a National Parks Overflight Working Group formed and working on proposed Federal Aviation Regulations to address national park overflight issues. This committee has representatives from all concerned parties and is making progress. They have been given a 100 day deadline for recommendations to the FAA Aviation Rulemaking Advisory Council (ARAC). Their next meeting is in Denver, Colorado, on August 4, 1997.

New legislation may be required to implement recommendations made by this committee, so any legislation submitted now would be inappropriate and counter-productive.

- The proposed legislation states under (a) FINDINGS.—Congress finds that—

- (1) noise associated with aircraft overflights at a national park can cause a significant adverse effect on the natural quiet and experience of the park; and

- (2) aircraft operations in a national park can raise serious concerns regarding public safety, including concerns regarding the safety of park users.

- We feel that both these findings are overstated and lack factual substance based on the following:

- (1) Noise: Era currently operates helicopter and fixed wing flightseeing tours over Denali National Park. We have worked voluntarily with the National Park Service over the last 10 years to mitigate any impact to park visitors or wildlife.

In discussions with the Denali National Park Superintendent, Steve Martin, last week, we still have no significant adverse effect on the natural quiet and experience of the park. On the contrary, we have provided safe, reliable and environmentally friendly access for thousands of visitors each year. This was done without any additional trails or roads which would permanently alter the park.

Era and Temsco both operate helicopter flightseeing tours in Juneau, Alaska. These tours include a glacier landing in Tongass National Forest managed by the USDA Forest Service. We are required to have permits to conduct landings on the glaciers. These permits are mandatory and have several restrictions, such as the number of landings and stand-off distances from specific sensitive areas. Additionally, Temsco and Era, in cooperation with the USDA Forest Service and the FAA, have voluntarily established routes and altitudes to be flown to minimize impact and increase safety.

In March of 1995, USDA Forest Service completed the first Environmental Impact Statement (EIS) on helicopter glacier tours. After the facts were reviewed and all the environmental impacts studied, we were allowed to increase our flightseeing tours over the next five year permit period. (See Attachment 4)

It is our understanding that in Grand Canyon National Park in 1995 there were over 5 million park visitors. The park received only 26 written complaints about aircraft overflight noise. These complaints were not categorized by activity and with this small a percentage, how can it constitute a significant problem?

Both Era and Temsco have invested 10's of millions of dollars in our modern fleet of helicopters utilized for flightseeing. At the time of purchase, these aircraft represented the best quiet technology available and we are continuing to evaluate new developments in this technology. We do not support the disqualification, elimination or preclusion of any air tour aircraft from any national park, based on the aircraft's make, model, engine, or equipment.

- (2) Safety: Over 1 million passengers have flown on Era and Temsco flightseeing tours in Alaska. None of these flights resulted in serious injury or death to any of our passengers or persons on the ground. During this same period throughout the US National Park System, there have been numerous deaths and injuries to ground visitors. These deaths and serious injuries occur almost daily. That is not the case with Alaska flightseeing tours. Every year injuries and deaths to bears and humans occur as a result of ground users coming in contact with each other. Not so with flightseeing—we only observe the bears, we do not disturb them.

To our knowledge, there has never been an injury to a national park ground user due to the overflight of an aircraft during a flightseeing tour. Our flightseeing safety record in Alaska is so much better than other forms of national park access, that it is difficult to compare them.

We in the helicopter flightseeing industry hold safety as our No. 1 goal. In every case we meet or exceed current Federal Aviation Regulations in our heli-

copter flightseeing operations. We have formed our own safety organization, TOPS (Tour Operators Program of Safety), to promote and encourage the highest safety standards. (See Attachment 5)

In Alaska, with 65% of all national park acreage, access is a key issue. When operated responsibly, flightseeing tours provide the safest and most environmentally friendly means of access.

Mr. Chairman, we encourage you to delay this legislation until the ARAC process is complete, then work on legislation based on the ARAC recommendations and substantiated facts and science about this complex issue. During the ARAC meetings, issues brought up in both S. 268 and S. 291 have been addressed and significant recommendations are being formulated to amend the current Federal Aviation Regulations (FARs).

Thank you for the opportunity to comment on this proposed legislation. I would be glad to work with and assist you and your staff on future legislation regarding national park overflights.

ATTACHMENT NO. 1

TEMSCO HELICOPTERS, INC.,
Juneau, AK, July 27, 1997.

Hon. JOHN MCCAIN,
Committee on Commerce, Science and Transportation,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am disappointed that I will not be able to provide testimony in person for the hearing on S. 268 regarding flights over units of the National Park Service, on July 30, 1997. However, I have spoken with Lash Larew, Executive Vice President, ERA Aviation, Inc. about the testimony he will be providing before your committee. Temsko Helicopters is in full agreement with this testimony, both in terms of the description of our situation in Alaska and the positions taken on park overflights.

It has been suggested that Alaska could be exempted from the proposed legislation. It is true that Alaska is unique because of our size, lack of roads, and dependence on air transportation. But it is hard to believe that a state with 65% of all national park acreage in the USA and 91% of all national park wilderness acreage would not be affected by the passage of legislation such as S. 268. It is imperative that the concerns of Alaska be heard and incorporated into any decisions made on this issue.

It is also worth emphasizing the success that we have had in Alaska conducting flightseeing operations. As Lash points out in his testimony, there are numerous examples of flightseeing operations being conducted with a full range of federal agencies that include the National Park Service, Fish and Wildlife Service, Bureau of Land Management, and the USDA Forest Service. All of these depend on cooperative and voluntary relationships between the agencies and the operators for their success.

Finally, I want to point out that this is not just an aviation industry issue. As president of the Alaska Visitors Association, I can assure you this is a matter of great importance to the visitor industry. I have included a copy of our position previously submitted to the docket for ANPRM 4910-13 Restricted Access to Airspace Over Federal Lands.

Thank you for the opportunity to provide comments for the record.

Sincerely,

BOB ENGELBRECHT
Vice President.

ALASKA VISITORS ASSOCIATION,
Anchorage, AK, June 13, 1994.

Federal Aviation Administration,
Office of the Chief Counsel,
Attention Rules Docket (AGC-200),
Docket Number 27643,
Washington, DC.

RE: AVA COMMENT ON ANPRM 4910-13, RESTRICTED ACCESS TO AIRSPACE OVER
FEDERAL LANDS

DEAR SIR OR MADAM: On behalf of newly 800 member businesses, the Alaska Visitors Association strongly opposes the intent of a recent Advanced Notice of Proposed Rulemaking (ANPRM) to restrict flight over national parks and federal lands.

Of Alaska's 367.7 million acres, the bulk of land area—216.5 million acres—is managed by the federal government. Much of the federally owned lands are virtually inaccessible by highway or other ground transportation leaving flightseeing as the only viable means to access a large portion of the national parks. According to 1993 National Park Service statistics, a record 1.6 million people visited Alaska national parks, representing a 40% increase in park service visitation over a five year period. Fixed wing and helicopter flightseeing is the highest rated of all visitor experiences and ranks third in popularity among visitors, following city tours and day trips. Clearly, flightseeing is an important component of the total visitor experience and has become a standard part of an Alaskan vacation.

Federal lands overflight restrictions would impede visitor access into remote areas of the national park and federal wildlife refuges—national legacies owned by every American. The senior citizen and physically challenged visitor to Alaska may not have the ability to hike into national park's backcountry, but should have every opportunity to access the abundant scenic beauty that exists beyond the highway network. By eliminating flightseeing excursions, the dream of many visitors to see great wonders like Denali, Kenai Fjords and Glacier Bay National Parks would be out of reach.

The Alaska visitor industry, the fastest growing in the state, contributes \$1.3 billion to the economy and directly employs 27,000 Alaskans. Any flight restriction into the parks would have a significant negative impact on our economy and job force.

We ask that the Federal Aviation Administration and the National Park Service study the total impact that flightseeing over national parks and federal lands has before implementing any restrictions that would exclude open access via airspace.

Sincerely,

DENNIS BRENDON,
President.

ATTACHMENT NO. 2—REGIONAL SATISFACTION RATING

Visitors rated 44 features of their Alaska trip in each region they visited on a scale of 1 (poor) to 7 (excellent). Flightseeing, rafting, hiking, hunting and photography in all regions led the way in visitor satisfaction. Restaurants/night life, shopping and select accommodation were rated lower than other features, though still above average in most cases.

Cruise ships were the highest rated accommodation (6.0), followed by resorts/lodges, bed and breakfasts (5.9) and the Alaska Marine Highway (Perry) (5.8). Visitors were less pleased with RV/campgrounds, which was supported by critical comments on the conditions of the grounds and the difficulties in obtaining necessary services. The lowest ratings went to hotels/motels, however this average rating of 5.2 was above average.

While air is the most utilized transportation mode, the highest ratings were for cruise ships and the trains in Alaska, both the White Pass Railroad and the Alaska Railroad. The Alaska Marine Highway and motorcoaches were next in the ratings. The cruise ship in the Southwest was a recent occurrence meeting with some success, given the highly positive rating. The train systems in Southeast and Southcentral significantly improved their ratings since 1989, as did the motorcoach mode in Southcentral.

Restaurant/night life scores remained similar in all regions since 1989, except in Southwest where it decreased. Shopping received the lowest average ratings of any feature, again above average in all regions except the Southwest.

The visitor information centers at Denali improved their ratings slightly since 1989. The visitor information centers in Southeast maintained their positive rating,

however, Southcentral, Interior/North and Southwest visitor information centers all declined somewhat in their satisfaction rating since 1989, though this decline is not statistically significant. Still, visitor information centers in all regions rated well above average, except in the Southwest.

Sightseeing ratings range from 6.9 to 5.6, all well above average. Flightseeing was the most popular experience for visitors. The riverboat cruises of the Interior/North were very satisfying to visitors, as were day cruises in the other regions. The park/bus tour in Denali/McKinley received a slightly lower but still very positive rating of 5.7.

Cultural attractions/museums received generally positive ratings, with Southwest and Denali/McKinley improving their scores from 1989. Visitors sent many positive comments about the museums in Anchorage.

The Southwest region garnered many high marks for its activities, achieving excellent ratings for rafting and hunting and the next high marks in saltwater fishing and wildlife viewing. Hunting received the highest overall satisfaction ratings, followed by rafting photography, hiking and saltwater fishing.

Table II-B.—Regional Satisfaction Ratings Accommodations, Services and Activities
All Visitors—Summer 1993
[1=poor 7=Excellent on 1 to 7 Scale]

	South- east	South- central	Interior- north	South- west	Denali /McKinley
Accommodations:					
Hotel/Motel	5.1	5.2	5.2	4.1	5.2
Resort/Lodge	6.2	5.2	6.1	6.2	5.8
Bed & Breakfast	6.0	5.7	5.9	5.9	6.0
RV/Campground	5.2	5.2	5.3	5.2	5.2
Cruise Ship	6.2	5.9	.....	.....	.....
Ferry	5.6	5.8	.....	6.0	.....
Other	5.3	5.3	5.5	3.0	5.9
Transportation:					
Motorcoach	5.7	5.7	6.0	6.7	5.2
Train	6.3	6.2	6.3	.....	6.3
Air	5.7	5.6	5.8	5.6	5.9
Cruise Ship	6.3	6.3	.....	6.0	.....
Ferry	5.8	5.4	.....	6.4	.....
Rental Car	5.7	5.4	5.5	5.9	5.9
Rental RV	5.2	5.6	5.4	.....	5.5
Restaurants/Night Life	5.2	5.1	4.9	3.8	4.8
Shopping	5.2	5.0	5.0	3.4	4.7
Visitor Information Center	5.9	5.8	5.9	4.6	5.9
Sightseeing:					
Flightseeing	6.5	6.3	6.5	6.9	6.6
Day Cruises	6.1	6.1	.....	6.5	.....
Riverboat Cruises .....	.....	.....	6.6	.....	.....
City Tours	5.7	5.7	5.7	6.1	.....
Native Cultural Presentations	5.9	5.8	6.2	5.0	.....
Shows/Alaska Entertainment	5.5	5.7	5.9	6.0	.....
Park/Bus Tour .....	.....	.....	.....	.....	5.7
Other Tours	6.0	6.0	6.1	5.6	6.1
Cultural Attractions/Museums	5.7	5.8	5.9	5.7	5.8
Activities:					
Canoeing/Kayaking	6.4	6.2	6.0	5.7	4.9
Rafting	5.9	6.2	6.0	7.0	6.3
Hiking	5.9	6.0	5.8	6.3	6.2
Fishing (Overall)	5.8	5.7	5.6	6.4	5.1
Freshwater Fishing	5.5	5.4	5.4	6.5	4.8
Saltwater Fishing	5.9	5.9	5.6	6.7	.....
Wildlife Viewing	5.8	5.9	5.5	6.6	5.7
Bird Watching	5.8	5.7	5.6	6.3	5.3
Hunting	5.7	6.6	6.5	7.0	6.9
Dogsledding	5.6	4.0	5.5	.....	4.6
Camping	5.5	5.5	5.4	5.3	5.3
Casual Walking	5.7	5.8	5.5	6.1	5.8
Photography	6.3	6.2	5.9	6.4	6.1
Northern Lights Viewing	4.8	5.4	4.7	.....	4.6

Table II-B.—Regional Satisfaction Ratings Accommodations, Services and Activities
All Visitors—Summer 1993—Continued
[1=poor 7=Excellent on 1 to 7 Scale]

	South-east	South-central	Interior-north	South-west	Denali/McKinley
Other	6.7	5.6	5.6	6.5	6.7

WHAT DID YOU PLAN TO DO IN ALASKA THAT YOU DID NOT DO?

Visitors were asked what they planned to do in Alaska that they did not get an opportunity to do. Across all regions, visitors planned to include additional areas on their itineraries but were unable to do so. This was especially true for visitors to Southcentral and Southwest. Visitors may be underestimating transportation factors when attempts to reach more remote locations in these regions.

Being unable to go fishing or engage in other recreational activities were disappointments for visitors to all regions, particularly Southwest. Visitors to Denali were unable to include certain attractions and day trips into their itineraries, as were visitors to the Interior.

Visitors to Southeast most wanted to see additional towns and areas. Other activities they wanted to include were fishing, additional attractions and day trips, seeing wildlife and flightseeing.

Table II-D.—What Did You Plan To Do In Alaska That You Did Not Do?
All Visitors—Summer 1993
[By Region Visited]

	South-east	South-central	Interior-north	South-west	Denali/McKinley
1. Include Additional Towns/Areas	23%	32%	25%	31%	29%
2. Fish	16	17	14	22	13
3. See Additional Attractions/Day Trip	15	15	17	11	16
4. Do Recreational Activities	9	9	14	17	11
5. See Wildlife	13	9	10	9	12
6. Flightsee	10	6	5	.....	7
7. Take Train	3	2	2	.....	2
8. Change Length of Stay/Budget Time Differently	1	1	2	.....	2
9. Make Specific Purchase/Shop in General	1	<1	<1	.....	<
10. Take Ferry	<1	1	1	.....	1
11. Enjoy Night Live/Entertainment	<1	<1	<1	.....	<1
12. Other	7	5	9	.....	7

WHAT DID YOU DO IN ALASKA THAT YOU HAD NOT PLANNED TO DO?

Visitors were asked what they did during their trip that they had not planned to do. Most visitors, across regions, visited additional attractions or took day trips. More than one-third (37%) of all visitors to Southwest were able to take additional day trips or see more attractions. One-third of visitors to Southwest took part in unscheduled recreational activities. Thirteen percent (13%) of visitors to Southwest added fishing to their itineraries.

Southeast visitors took the opportunity to add recreational activities, such as rafting, to their plans and flightseeing, a popular Southeast sightseeing attraction. Visitors to Denali also added recreational activities and flightseeing to their plans.

Table II-E.—What Did You Plan To Do In Alaska That You Did Not Do?
All Visitors—Summer 1993
[By Region Visited]

	South-east	South-central	Interior-north	South-west	Denali/McKinley
1. Saw Additional Attractions/Day Trips	31%	26%	25%	37%	24%
2. Added Recreational Activities	17	19	15	35	21

Table II-E.—What Did You Plan To Do In Alaska That You Did Not Do?—Continued
All Visitors—Summer 1993
 (By Region Visited)

	South- east	South- central	Interior /north	South- west	Dis- tributed
3. Went Flightsseeing	17	15	15	1	
4. Visited Additional Towns/Areas	7	9	12	3	
5. Went Fishing	3	6	3	13	
6. Made Specific Purchases/Shop in General	7	3	4		
7. Enjoyed Night-Life/Entertainment	2	4	2	2	
8. Saw Wildlife	2	1	2		
9. Changed Length of Stay/Budgeted Time Differently	1	1	3	1	
10. Rode the Train	1	1	<1		
11. Went on the Ferry	1	1	1		
12. Went Wilderness Camping		<1	<1		
13. Other	11	12	18	11	

ATTACHMENT NO. 3

Alaska Land Distribution (Current to October 1, 1995)

Ownership	Acres (>1,000)	% Alaska	Acres (US) (>1,000,000)	%
Federal:				
BLM Public Lands	86,200*	23.60	267.6	
Defense and other federal	2,100	0.01		
National Forest System	22,219	6.10	185.2	
National Park System	52,709	15.00	80.6	
National Wildlife Refuge System	75,261	20.60	85.5	
State:				
State of Alaska	89,600	24.5		
Private:				
Native Corporations	36,400	10.0		
Other Private	1,000	.003		
Total	365,489			

* Completion of State and Native selections will reduce BLM acreage to approximately 65 million acres.

Wilderness in Alaska

Agency	Acres	%
Fish and Wildlife Service	18,676,320	
National Park Service	33,492,269	
USDA Forest Service	5,800,366	

Wild & Scenic Rivers in Alaska

Agency	River mi
BLM	
National Park Service	1,
Fish and Wildlife Service	

Source: USDI Bureau of Land Management, 1996.

Total BLM managed public lands in Alaska: 188,700,000 acres
(As of October 1, 1993)

<hr/>	
Conservation units:	
Steele National Conservation Area	1,200,000
White Mountains National Recreation Area	1,000,000
National Wild and Scenic Rivers:	
Beaver Creek	72,000
Birch Creek	66,000
Delta River	37,000
Gulkana River	91,000
Fortymile River	250,000
Unalakleet River	45,000
Other:	
National Petroleum Reserve-Alaska	23,000,000
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United States
Department of
Agriculture

Forest Service

Alaska Region

Tongass
National Forest
R10-MB-287

March 1995



Helicopter Glacier Tours

Final Environmental Impact Statement

Alaska Region
Tongass National Forest
Chatham Area
Juneau Ranger District



Photograph Copyright © M. Kelley, 1994

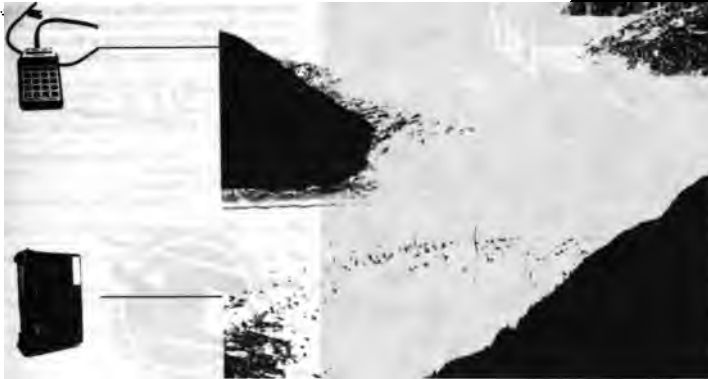
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Alaska Helicopter Tours Sound Measurements: Juneau, Alaska





T.O.P.S.

Over three years ago, a group of helicopter air tour operators came together with the mission of establishing enhanced operational and safety standards for the industry. Those standards have been developed into the Tour Operators Program of Safety (TOPS). This effort involved unprecedented cooperation between competitors, sharing safety information and developing procedures to assure that the helicopter flightseeing operations of its members adhere to the highest standards of safety. Most importantly TOPS, for the first time ever, is providing travelers interested in enjoying a helicopter tour a way to insure they are flying with a company that has the highest regard for safety.

The founding members used a variety of resources from the aviation industry to develop TOPS standards. Under these standards, TOPS operators undergo a rigorous initial external safety audit, followed by annual audits that insure operators are meeting, and in many areas exceeding, Federal Aviation Administration (FAA) safety requirements. In 1996, TOPS certified the first group of air tour operators that represent the best in the major helicopter tour markets across the country.

Helicopter flightseeing operators make up the core membership of TOPS. Associate members include helicopter manufacturers, insurance companies, suppliers and safety consultants, all of whom share a common concern for promoting a safe and professional industry. Membership in this voluntary, self-regulated group is expected to grow substantially as our goals and achievements become more well-known. I encourage you to learn more about TOPS, talk with our members and help spread the word about our mission. Together, we can provide access to scenery for enjoyment and education, while in the care of good, safe and professional helicopter tour operators.

Sincerely,

Elling Halvorson
T.O.P.S. Chairman



TOPS

Tour Operators Program of Safety

TOPS goes beyond the requirements of the Federal Aviation Regulations for Part 91 and Part 135 operations*, under which most air tours are conducted. The following table lists some of the TOPS safety requirements that exceed the regulations.

*As of April 1, 1997

	TOPS FAR FAR		
	135	91	
Required Safety Program	YES	No	No
Annual Safety Audits	YES	No	No
Designated Safety Manager	YES	No	No
Human Factors & Aeronautical Decision Making Training	YES	No	No
Ongoing Safety Training	YES	No	No
Pilot Requirements of 1,000 hrs. flt. time and typical terrain experience	YES	No	No
Minimum en route altitude of 500 feet above ground level	YES	No	No
Minimum of 1 mile visibility	YES	No	No
Maximum angle of bank (30) and pitch (10) with smooth transitions	YES	No	No
Avoidance of the height-velocity curve	YES	No	No
3 year experience requirement for A&P mechanics	YES	No	No
Maintenance factory training requirement	YES	No	No
Mechanic annual training requirement	YES	No	No
Emergency Locator Transmitter required (ELT)	YES	No	No
High visibility rotor blades and flashing landing lights	YES	No	No
Aircraft instrumentation required to night visual flight rule standard	YES	No	No
Specialized ground support personnel training	YES	No	No

T.O.P.S. MEMBERS



MEMBERS

- 1 Papillon Grand Canyon Helicopters, Grand Canyon, Arizona
- 2 Airstar Helicopters, Inc., Grand Canyon, Arizona
- 3 Temco Helicopters, Inc., Juneau, Alaska
- 4 ERA Helicopters, Anchorage, Alaska
- 5 Blue Hawaiian Helicopters, Kahului, Maui, Hawaii
- 6 National Helicopter Corporation, Farmingdale, New York

ASSOCIATE MEMBERS

- 7 Caledonian Insurance Group, Mercer Island, Washington
- 8 Intrepid Helicopter Corporation, New York, New York
- 9 USAIG, New York, New York
- 10 Willis Corroon Aerospace, New York, New York
- 11 Air Chuck, Inc., Atlanta, Georgia
- 12 AIG Aviation, Atlanta, Georgia
- 13 Bell Helicopter Textron, Inc., Fort Worth, Texas
- 14 American Eurocopter Corporation, Grand Prairie, Texas
- 15 Associated Aviation Underwriters, Short Hills, New Jersey
- 16 Pacific Scientific-HTL/Kin-Tech Div., Yorba Linda, California
- 17 Albert & Associates, Lafayette, Louisiana
- 18 CIGNA Corporation, Philadelphia, Pennsylvania
- 19 McDonnell Douglas Helicopter Systems, Mesa, Arizona

The CHAIRMAN. Thank you very much, Mr. Larew. If this ARAC had started about 10 years ago I believe it would be a great deal more important to the recommendations. In fact, my first question for Mr. Robinson or Mr. Pearl is, were you a bit surprised or disappointed that neither the National Park Service nor the FAA supports this legislation at this time?

Mr. PEARL. Yes, we are disappointed.

Mr. ROBINSON. I would agree, and I have already stated so. I think it is very disappointing.

The CHAIRMAN. I swore that I would not get into this coincidental convening of the ARAC at this particular time, so Mr. Petty, could we ask your views on the imposition of fees and the inability of some of your membership, or unwillingness of them, to pay these fees?

Mr. PETTY. Yes, Senator. I would like to dispel a couple of misconceptions about the air tour industry. One is that the air tour industry as a whole is expecting a free ride in our parks. The other is the misconception that the air tour operators are businesspeople who, for the sake of a dollar, are going to do whatever it takes to make money at the expense of our parks.

The CHAIRMAN. Mr. Petty, I am not making either of those allegations. I am just asking about the issue of the payment of fees.

Mr. PETTY. On the fees subject, the air tour industry as a whole, as you know—and I said this in our hearings in Las Vegas that since the legislation went through in 1994 and the fees were started to be collected, a majority of the air tour industry has and does continue to pay the overflight fees.

In the case of my company I can speak directly. We have paid in excess of \$400,000 in overflight fees, and in that same time we paid in excess of \$1 million in park entrance fees, so we are paying double entrance fees there.

Last year, in 1996, as far as the fees and taxes go—fees directly related to Grand Canyon entrance and landing fees and so forth—we paid approximately 20 percent of our gross revenue for fees and taxes, in excess of \$2 million, so to my knowledge, in excess of about \$4 million has been collected and paid from the Grand Canyon operators.

The CHAIRMAN. Well, I would ask the question again. It is documented that a number of companies, air tour companies have not paid their fees. Do you have any recommendations as to how we can change this situation?

Mr. PETTY. Right now, on fees, the operators are required to report the number of flights plus their fees, which are paid to the park service. It is done through enforcement, voluntary enforcement by the operators. That system, I would propose, is working for the operators who are paying it.

There are operators that I know are, but I know there is one situation starting now in litigation with an operator who is not. It is very much a minority situation, so the system by which they are collected now, in my opinion, is a working situation. We are required to report the number of flights over and pay the fees accordingly. That has been put on us.

The CHAIRMAN. Thank you. I guess I ought to elaborate a little bit. Mr. Robinson, Mr. Pearl, I, and many other people are dis-

appointed that there has not been any action or recommendations on the part of the Administration up until last Earth Day, when it was announced.

We have had dialog with the Administration for 10 years. We have been urging them to come forward with recommendations for the entire National Park System.

They are aware of the problems throughout the Nation, and there was no movement until Earth Day, and then there was this advisory committee formed up, and when one sees the results of the Gore commission after the TWA crash, one gets a little cynical about what happens to these recommendations and what happens after the press conference and the photo-op is held.

That is why, Mr. Larew, I am not excited about the prospect of waiting till after recommendations are made, because the history of this Administration is that there is no followup after these announcements are made, whether they deal with aviation safety or other issues that this committee has had oversight over.

So, I guess I needed to make myself clear. That is why those of us, including the Grand Canyon Trust and the National Parks and Conservation Association and others, are disappointed that we have not had any action before now.

Senator Bryan.

Senator BRYAN. I would defer to my much more senior colleague.

Senator STEVENS. I am happy to go back and forth. Go ahead, Senator.

Senator BRYAN. Thank you. I appreciate that very much.

Let me just say, gentlemen, we appreciate your testimony.

Mr. Robinson, Mr. Pearl, what is your definition of substantial restoration of natural quiet? As you know, that is one of the issues of contention that is not defined in the 1987 legislation or this legislation. Let me ask each of you to give us what your interpretation of that would be.

Mr. ROBINSON. Well, first of all the Grand Canyon Trust really is not all that happy even with the definition that the park service came up with originally for what constitutes substantial restoration, because, in our opinion, substantial means over half of something.

If you look at any common dictionary definition of the term "substantial," it is generally well over half. We are nowhere near that right now at the Grand Canyon, with the combination of the current rules, and, frankly, that is one reason why we are challenging it.

Senator BRYAN. What would your recommendation be, Mr. Robinson?

Mr. ROBINSON. We believe in the Grand Canyon—based on monitoring and detection that really a minimum of two-thirds to three-quarters of the park should be substantially restored.

Senator BRYAN. And when you say substantially restored—I understand obviously the geography you are talking about, the two-thirds to three-fourths. What do you mean, substantially restored?

Mr. ROBINSON. Well, essentially that amount of the park—if you were to go into the backcountry or whatever, that you would not be able to hear, or if you did not want to hear, that you could be free of the sound of air tours. In fact, one of the issues that I men-

tioned before is that, even though we are developing flight-free zones, they are not necessarily noise-free, and a significant part of the problem is that noise travels.

Senator BRYAN. Mr. Pearl.

Mr. PEARL. I readily grant you, it is a highly subjective answer that your question requires. I would argue that—

Senator BRYAN. Do you not agree that we do not have a definition, whether or not we agree with what the objective ought to be, so it requires some subjectivity, and that is why—you are obviously a knowledgeable and informed man.

Mr. PEARL. I understand, and I grant you, it is subjective. My personal definition would be one where I went into the backcountry and was not readily aware of helicopter overflights.

However, I would also argue that even in a quiet helicopter—and with all due respect to the Chairman's effort to quiet technology, a helicopter hovering overhead in the backcountry is not an appropriate experience to go through either, so it is not only the noise, it is the whole mechanized use in the backcountry as well.

Senator BRYAN. Does your definition include motorized ground transport? Having been to the canyon on both sides, there is a substantial volume of auto traffic, bus traffic. I have obviously been part of that automobile traffic, having been there many times on both sides of the canyon. Is that involved in the definition?

Mr. PEARL. Well, I think that when a person is in a front country experience they anticipate and expect noise. You are going to be around people. You are going to be around vehicles. It is an entirely different experience when you go to the more remote parts of the park looking for that solitude and tranquility which is interrupted by the helicopter and fixed-wing overflights.

Senator BRYAN. And would your position be, in order to establish this objective, that if it was necessary that not general aviation but commercial overflights—I fly to Las Vegas every weekend. We fly over part of the Grand Canyon as we are making our approach to the Las Vegas Airport and McCarran. I would presume that probably that noise level might be heard by some.

Mr. PEARL. I would assume that also, but that is really not the subject of what this bill is about, as you know, and we are not really targeting general aviation or general commercial aviation. It is an entirely different experience to be in a canyon where you expect a remote experience and you have a helicopter hovering over you at 1,000 feet.

Senator BRYAN. Mr. Pearl, this may have been before you got involved with the National Parks and Conservation Association, so I do not want to read this statement in the context that you have made it, but in a letter of May 20, 1994, addressed, Dear Aircraft Noise Activist—and I am sure that is a very legitimate group that you all are working with. Mr. Chandler, who was at that time the director—is he still the director, sir?

Mr. PEARL. He is the director of conservation policy.

Senator BRYAN. He has this statement: "We must act now to propose better standards for our national parks, reject the compromise solution suggested in the ANPRM, and demand the total elimination of aircraft from the national parks." The total elimination.

That may not be your position, Mr. Pearl, but that gives some cause for concern as to how far, recognizing the legitimacy of solitude—and believe me, those of us who serve in this institution appreciate an opportunity for a little solitude from time to time, but that would seem to me that you would include not only the kind of air tours that we have been discussing this morning, but that your position would include military and commercial aircraft as well. Maybe you can clarify that.

Mr. PEARL. Well, I think that one can argue the slippery slope argument from either side of the fence here, and I think you can agree with me there, and one's policy position evolves over time, and I think what we have laid out today reflects our policy, which may be different than our position in 1994.

Senator BRYAN. And again, not to be contentious with you, Mr. Pearl, but this is not the slippery slope this appears to be, and I must say I am just reading this. Your group is a very legitimate group. I probably agree with 90 percent of what you are proposing in terms of the National Park System, because I am an advocate and supporter, and this does say, "demand a total elimination of aircraft in the national parks." It is not restricted or limited.

Again, I am not suggesting that is what your testimony is, but this is an organization that has taken this position. Mr. Chandler is the director, and if that is no longer his view, we would welcome an opportunity to clarify that.

If the distinguished acting chairman will permit me one more question, I thank the Senator.

I understood, Mr. Pearl, your suggestion to be that with respect to the extension of this restoration of natural quiet, you believe that should be extended to any unit managed by the park system. I thought that was your testimony, and correct me if I have misstated that.

Mr. PEARL. That is correct, and when I said that, I added the caveat that, as a practical matter, once it was extended to every unit in the National Park Service, that the park service would look at the individual units and determine whether it was either an existing problem or a potential problem and make park-specific recommendations accordingly.

Senator BRYAN. Now, your organization has indicated the national park units with commercial tour oversights are a concern of park managers. I am not familiar with all of these areas, and again I am not trying to blindside you. I think you are probably familiar with this. If you are not, I want you to have a copy of it.

But among those areas that you have listed that I am familiar with, and that are on that list there on the back page, would be national recreation areas. Having lived in Las Vegas for more than a half-century I have some familiarity with Lake Mead National Recreation Area, thoroughly enjoy it, and have been there many, many times, as has my family. But as you appreciate it is almost impossible on a normal flight to approach McCarran Airport on the East-West runway without direct approach over the Lake Mead National Recreation Area.

Having been out at the lake, you do, in fact, hear aircraft. There is no question about that. Again, my concern, if the objective is to eliminate all aircraft from national parks, if the standard is to be

to extend that to all units managed by the National Park System, that position would be rather severe and extreme in terms of its application.

Let me give you an opportunity to respond.

Mr. PEARL. Well, again, I can only reflect what I said earlier, that the testimony I provided today is our position today, and policy does have a tendency to evolve over time, given the consideration of various points of view.

With respect to your particular situation, any commercial aircraft on approach or general aviation aircraft on approach is not the subject of this legislation. What we are concerned about is, what if a number of operators began operating over even a national recreation area and were hovering at low altitudes at inappropriate times and causing problems for visitor enjoyment or wildlife harassment? We would be concerned, yes.

Senator BRYAN. I think my point, to conclude, Mr. Chairman, is that I agree with the concept that there has to be some balance. I am certainly not suggesting that no-flight zones are not appropriate. I think they are. I would hope that the consensus-building process which is emerging, to my way of thinking, is the most logical vehicle to at least attempt to see.

My experience, much less so than the able senior Senator from Alaska, is that, by and large, when the parties themselves representing the various diverse interests: commercial aviation, general aviation, military aviation, recreational advocates such as yourselves—and I salute your advocacy. I am delighted that you are here today. Your voice is important to be heard.

But all of us sitting together, trying to work out in the spirit of compromise—I do not happen to be of the view that compromise is a bad word. I mean, that is the way in which we conduct our personal lives, our family lives, our business associations.

This institution is functioning at this very moment as a product of a compromise. I suspect that Senator Stevens and I would not agree on every part of that legislation, but it is the product of compromise. That means give-and-take, and I would hope your organization would lend its support to that effort, and I hope we can indeed achieve a result that all of us can proclaim. I thank you very much, my friend.

Thank you, Senator Stevens.

Senator STEVENS. I am particularly interested, Mr. Robinson and Mr. Pearl—you each have mentioned people are in the canyon seeking wilderness experience. How did they get there? Where did they insert themselves into the canyon?

Mr. ROBINSON. Well, they hike in from various access points.

Senator STEVENS. Well, do they drive, or fly there?

Mr. ROBINSON. They have either driven or taken a bus, however—

Senator STEVENS. Are they inserted anywhere by air? Do helicopters take them in?

Mr. ROBINSON. In the Grand Canyon?

Senator STEVENS. Along the river.

Mr. ROBINSON. People do float in. Most of the floats originate at Lee's Ferry, and in some cases further down the river. They actually fly out.

Senator STEVENS. You have each made recommendations concerning all the national parks. How many have you been to?

Mr. ROBINSON. How many have I been to? I have been to many—dozens.

Senator STEVENS. Have you been to parks in my State?

Mr. ROBINSON. I have been to parks all over your State. I used to live there.

Senator STEVENS. How did you get in?

Mr. ROBINSON. How did I get in?

Senator STEVENS. How did you get into those parks?

Mr. ROBINSON. I have actually flown all over Alaska. I do not see this legislation has any bearing on that actual activity in Alaska.

Senator STEVENS. Well, when I go fishing, I go by an air tour operator. How did you fly in?

Mr. ROBINSON. Well, I think an air tour operator may have brought you in, but the actual process of chartering a bush plane to get somewhere, whether it is the Arctic Slope or Misty Shores is really different from taking a group of people—

Senator STEVENS. Not under this legislation. Not under this legislation.

Mr. ROBINSON. Well, what I can say is that we support regulation of air tour operations, but we do not believe that this bill—

Senator STEVENS. Did you go to Katmai?

Mr. ROBINSON. Yes.

Senator STEVENS. How did you get in there?

Mr. ROBINSON. I flew.

Senator STEVENS. Did you have your own plane?

Mr. ROBINSON. No. I do not fly.

Senator STEVENS. Neither do I, but as a practical matter, you went in with a commercial operator.

Mr. ROBINSON. Well, right, but those are either bush flights or charter flights.

Senator STEVENS. But in the park service there are commercial people there for their commercial air tour operators.

Mr. ROBINSON. I have to say that what we are addressing here, and at least our position is that we are looking at air tours, flightseeing, flightseeing air tours.

Senator STEVENS. That is what they are. I have just made arrangements this morning for an old friend of mine who is going to Alaska and wants to see the bears. We have a proposed limit on the number of people that can be on the ground looking at the bears at Katmai. Did you know that?

Mr. ROBINSON. I know that.

Senator STEVENS. So, if you want to see them, you must go with an air tour operator, but this legislation would say the person on the ground could limit that up there, too.

Mr. ROBINSON. I am not a lawyer, first of all, and if this legislation says that, then we really do not agree with that.

Senator STEVENS. Well, I hope so.

Mr. ROBINSON. We are looking at regulation of commercial flightseeing air tours, and I have not been in Alaska—

Senator STEVENS. Well, I do not want to seem like I am picking you, but I am just really trying to find out—I used to go the Grand Canyon in the days when—as a matter of fact, I think I went down

on the back of a mule, or something like that, and I am getting a few gray hairs since then. I know a lot of friends that go there and they are not going to do that. How would people my age get down to the bottom of the canyon unless they went down in a helicopter?

Mr. ROBINSON. Well, there are a number of ways. One of them is a mule. One of them is, you float down. The other way is to hike.

Senator STEVENS. The legislation has a generational impact, is what I am saying.

The bulk of the people that come to my State now are over 50. Most of them as a matter of fact are over 60, as tourists. Is that not the same with you in the Grand Canyon area, people from outside there?

You are talking about back-packers. You are talking about people that can float. You are talking about people that can hike down the side, or ride a mule. Now, gentlemen, it does seem to me that we are going to see the gray beards come out on this one, because the bulk of the people that want to travel to see the national parks are people that are in their retirement age. And you know, we are living longer, and you are telling me that we should limit them in terms of their access to national parks.

The bulk of the people that fly air tour flightseeing out of Juneau are saving us the trouble of building us a road up there, and I think the impact of what you are saying applied outside of your area—now, I have got to tell you, even in your area I would have some question about total access.

Mr. Pearl, you mentioned, in particular, this business about limiting access to all other parks. Both of you have, and I just wonder about that.

Mr. PEARL. I do not recall saying limiting access to all other parks.

Senator STEVENS. By air.

Mr. PEARL. I do not recall that statement, specifically, but with respect to what you raised earlier and the questions you posed to my colleague, no one has talked about denying access to Alaskan parks. No one is talking about not allowing a fisherman to fly into a lake. We are addressing air tour operators, people who pick people up, fly them over the park at relatively low levels, and then deliver them back to the airport.

Senator STEVENS. That is exactly what we have been doing. Katmai National Park, it is a park where you look down at the volcanoes. This would cover them.

Mr. PEARL. And what we also advocated, and was included in our testimony, was park-by-park specific regulations that provided for appropriate access to the park.

Senator STEVENS. That gets me to my last question, and that is, you want the park service manager to make that decision, right? You say, let the park service study it and let the park service make the decision as to who gets the right to be a tour operator over the park, right?

Mr. PEARL. What I said was that the park service would have jurisdiction in terms of what impacts and what level of use were allowable within the park.

It would be a commercial use of the park, just like any concession in the park is, and in terms of jurisdiction over the air space,

it would be the FAA who would control safety matters and also make recommendations with respect to safety matters, and make all enforcement efforts with respect to pilot privileges.

The park service would only have enforcement with respect to commercial privileges within the national park.

Senator STEVENS. Let me tell you, the park service has a rotation policy, did you know? These people are there a maximum of 3 years, and then they move on to somewhere else. Most of them do not know what is in their backyard. They are not there long enough to learn, and they make decisions based upon their experience, maybe in the Everglades when they come to Alaska, or they make decisions in the Grand Canyon based upon their experience in Alaska.

They are not the people to make decisions to affect the future of the parks. As far as I am concerned, those decisions have to be made here, by law, so that everybody knows what their rights are. I am tired of seeing people's rights abused by granting more and more discretion to administrators who are only there for a short period of time and really do not think about the economy of the area, the people in the area, the safety in the area, and just the basic human rights of the people in the area. I have to tell you, that is not going to fly as far as I am concerned.

Mr. PEARL. Well, sir, that may be the route we eventually go, but there is a need for, in my mind, a systematic approach to the problem. If we do not have a systematic approach to the problem we are not going to have a defensible position anywhere.

If we approach it from the standpoint of having a systematic approach, and then within each park there are the players at the table who determine what is and what is not appropriate, and the National Park Service is there to determine what the resource impacts of those decisions are, I think we are in a sound decision-making process.

Senator STEVENS. Look at that map. That map is one-fifth of the United States. Anything that is green, yellow-green, medium green, or deep green is managed by people who just come up there 1 or 2 years and leave, and that is the result of what you suggest, of just a general authority for the managers to make decisions.

They drew the boundaries, and they are now trying to tell us what we can and cannot do, and that is better than 60 percent of our State.

Now, I have to tell you, if other people are to live through the experience we have gone through the last 17 years, I think you put the same thing in a Yosemite or into Yellowstone or anywhere else where there are millions of people, Congress would have reacted immediately. But we have sparse populations, which is most of the park areas, and the people forgotten first are the people who live in the area.

But the park service personnel have no relationship to what is going on in the major part of the area in which they live. I urge you not to pursue that. I believe we ought to do just what I suggest.

Let us have a consensus meeting here, get some maps of the areas you want to regulate, let us decide what areas should be available, what areas should be closed to the tour operators, make

a decision, so everybody knows what it is right here, and we legislate that. Then let the next generation maybe approach it again if there is more congestion somewhere else, but let us just not give someone the authority to start making decisions that 10 years from now will affect lives of people in the area without them being heard. That is what you are suggesting, it seems to me.

Yes, sir, Mr. Jensen.

Mr. JENSEN. Sir, I have a more complete answer to Senator McCain's question regarding the midair collision. I would like to read it into the record.

Senator STEVENS. I would suggest you put it in the record.

[The information referred to follows:]

NTSB Highlights Grand Canyon Issues: The National Transportation Safety Board stated in their Accident Report NTSB/AAR-87/03, issued July 25, 1987, that the issues highlighted in the report were FAA oversight and the National Park Service influence on revision of tour routes. [Under pressure from NPS and "environmentalists," tour routes were revised about 30 days before the accident.]

The NTSB Probable Cause: "The NTSB determines that the probable cause of this accident was the failure of the flightcrews of both aircraft to 'see and avoid' each other for undetermined reasons. Contributing to the accident was the failure of the FAA to exercise its oversight responsibility over flight operations in the Grand Canyon airspace and the actions of the National Park Service to influence the selection of routes by Grand Canyon scenic air tour operators. Also contributing to the accident was the modification and configuration of the routes of the rotary-wing operators resulting in their intersecting with the routes of Grand Canyon Airlines near Crystal Rapids."

The compression of more aircraft in less airspace, whether it is done vertically or horizontally—or both as in the Grand Canyon Final Rule—contributes to an inevitable increase in the potential for airspace conflicts between aircraft. The fact is that the scenic air-tour routes were safe for many years until non-aviation experts imposed their views on the routes.

Senator STEVENS. Thank you very much.

[Whereupon, at 12:45 p.m., the committee adjourned.]

APPENDIX

PREPARED STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Mr. Chairman, thank you for accepting my testimony before this committee with regard to S. 268, the National Parks Overflight Act of 1997. I commend you for your efforts to ensure a quality experience for visitors to our national parks.

I agree that overflights have the potential to impair the natural quiet in our parks, and that park overflights are not appropriate in every case. The issue is not an easy one to solve, however, and I believe it deserves a great deal of input from all sides to find a reasonable solution. With that in mind, Mr. Chairman, I would like to share with the committee a few reservations I have with the way this legislation attempts to deal with the question of park overflights.

This bill calls for the Secretary of Interior to promulgate a management plan for air space over national parks. The plan would include directives to restore the natural quiet in the parks, ensure public safety, establish flight-free zones, and restrict aircraft overflights. The Administrator of the Federal Aviation Administration (FAA) would be required to implement the Secretary's recommendations without change, unless "the Administrator determines that implementing the recommendations without change would adversely affect aviation safety."

Mr. Chairman, although I agree that natural quiet is important in our national parks, I believe that defining "natural quiet" as a resource to be managed by the Secretary of Interior deserves further discussion. The Senate Energy and Natural Resources Committee is best equipped to consider what should be considered a natural resource and how it should be managed. For this reason, I support the request made by Senators Murkowski and Thomas that this legislation be sequentially referred to the Energy Committee.

A second concern I have is whether the Secretary truly has the resources and expertise necessary to make important decisions affecting air space over national parks. I would argue that the Secretary of the Interior is ill equipped to make recommendations to the Federal Aviation Administration on these issues. I have not yet heard a compelling argument for shifting the regulation of airspace to a new agency which has no expertise in this area.

Along similar lines, will the Agriculture Department want control of airspace over national forests? The control of airspace over these areas is of significant concern to our state.

Finally, I am concerned that this bill would undermine ongoing attempts of the Aviation Rulemaking Advisory Council (ARAC), which has been formed under direction of the White House to address the concerns of aircraft overflights of national parks. The APAC has been given 100 days to investigate the concerns and provide recommendations for new federal regulations on aircraft overflights. The ARAC enjoys representation from members of the air tour industry, the National Park Service, environmental groups, and the Native American community.

Mr. Chairman, it remains to be seen how effective the 100-day APAC working group will be, but I believe we should let the process play itself out. A strength of the ARAC process is that it involves all the stakeholders, including environmental groups, which have first-hand knowledge of the areas under consideration. It is consistent with the philosophy of allowing more input from affected parties. S. 268 preempts this process. I support letting the ARAC process move forward, and I urge the committee's consideration of the ARAC findings and recommendations before acting on S. 268.

Mr. Chairman, thank you for the opportunity to air these concerns.

PREPARED STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF UTAH

Mr. Chairman, thank you for the opportunity to testify before this Committee on S. 268. While it has been a number of years since I last testified on this issue, many of the problems on National Park overflights have yet to be resolved and I do not believe S. 268 fairly addresses many of these problems. In fact, even before this bill was introduced, the pending Federal Aviation Administration Department of Transportation regulations, partially contained in the Final Rule to implement those regulations, ended up in the US District Court of Appeals with attacks from both the air tour industry and preservationist organizations. It is obvious that not only do the Park Overflight issues remain unresolved, but it is equally obvious that nobody was happy with them—on either side.

S. 268, I believe, does not resolve the park overflight issues the way I had hoped that legislation could have resolved them. I continue to look at park overflights basically the same as I have in the past and I am committed to stand by the positions I gave in testimony to the House Aviation Subcommittee more than three years ago, almost to the day.

One of the most important positions I hold is that control and the jurisdiction of the airspace must remain with the FAA, regardless of the land management agency underneath the airspace. To do otherwise would immediately or imminently put many lives at risk. There simply is no justification to give regulatory authority of airspace to the National Park Service, an agency which has had little experience in dealing with aircraft and airspace compared to the FAA.

Another major issue concerns natural quiet. There is no evidence whatsoever that suggests that "natural quiet" is a resource in and of itself as the National Park Service, along with S. 268, contends. Natural quiet is a human and aesthetic value, has always been a human and aesthetic value, and will always remain a human and aesthetic value regardless of the definition placed upon it by a federal agency. In fact, the very enabling legislation which established the National Park Service in 1916 never mentions natural quiet. It was, instead, established with the purpose to conserve the scenery and the natural and historic objects and the wildlife therein, for the enjoyment of visitors and for future generations of visitors.

Furthermore, the intent behind establishing National Parks was to preserve land and resources which contained outstanding, unique, superlative, or distinct characteristics. Assuming for a moment that natural quiet is a resource, is it unique, outstanding, or superlative? To the contrary, natural quiet can be found almost anywhere at almost anytime. There is nothing unique about it. If it is, I invite and welcome people from everywhere to visit the great State of Utah which is not only blessed with some of the most scenic and beautiful land in world, but, apparently, also blessed with unbounded resources of natural quiet. Just walk out into any sagebrush flat in the State to experience it for yourself.

In terms of the National Park Service then, the value of natural quiet must be assessed within the context of the park visitor. To do otherwise, not only transcends common sense, but also contravenes established law. For example, Public Law 93-620 enacted in 1975 specifically for the Grand Canyon, but can be applied elsewhere, states that if problems occur the Secretary of the Interior shall submit to the FAA or the EPA, such complaints, information, and recommendations, to help solve the problem. The clear meaning here is that park visitors will be the ones complaining, passing on information, and making recommendations—not acoustical equipment set up in areas where there is no one.

Moreover, the result of S. 268 would be the drastic curtailment, if not total elimination, of a thriving air tour industry. This industry has served millions of park visitors and has provided varied experiences for people to see National Parks from different perspectives. Millions more will take advantage of seeing the majestic parks from the air in the future. Yet, S. 268 disregards the millions of visitors and, instead, focuses on the handful of park visitors who may have been temporarily affected by aircraft noise. This simply does not constitute justification enough to give the Park Service total discretionary authority over the air tour industry which has provided service to millions of park visitors and has had almost no environmental impact on the park resources.

In summation, I believe that we have already fulfilled the obligations under law (Pub L. 100-91) to restore substantially the value of natural quiet to our National Parks. The proof lies in the registered complaints about aircraft, for example in the Grand Canyon, which used to number in the hundreds, but in 1995 only registered 56 complaints out of approximately 5 million visitors. I believe that natural quiet is an aesthetic and human value—not a resource—and must be assessed in this manner. I believe S. 268 will ultimately lead to the elimination of a thriving air tour

industry. And finally, it is critical that the jurisdiction over airspace remain in the hands of the FAA. Thank you again for the opportunity to testify.

PREPARED STATEMENT OF ALAN FARAGO, CONSERVATION CHAIR, SIERRA CLUB
MIAMI GROUP

Today the Senate Committee on Commerce, Science, and Transportation is hearing testimony on an important national concern: impacts to our national parks from overflights by air tour operators. We welcome this timely and important event. We offer our strong support for the leadership of Senator McCain in introducing S. 268, National Parks Overflights Act of 1997.

For years, the issue of noise impacts from aircraft over national parks has been bubbling within federal agencies. We take this occasion to sound the alarm; our fundamental right to enjoy our national parks in peace and quiet is at high risk by noise from above, the apathy of local and state jurisdictions, and the inaction of federal agencies.

Our experience in South Florida is based on severe noise impacts anticipated by the planned redevelopment of the former Homestead Air Reserve Base ("HARB"). HARB is literally on the edge of two of America's most endangered national parks: Biscayne National Park ("BNP") and Everglades National Park ("ENP") and a national marine sanctuary, the Florida Keys National Marine Sanctuary.

We have endeavored to bring common sense and reason to the analysis of impacts that would result from this major airport. But our efforts have been undercut by local and state jurisdictions and by gaps in federal authority that no agency has the institutional willingness to confront. We offer the following brief statement, followed by more specific recommendations, with respect to noise impacts.

We are appalled that Everglades restoration, a cherished goal of the American people and subject of the most ambitious and costly restoration project in human history, is directly in the flight path of a new international airport whose airport layout plan—virtually guaranteeing more than 240,000 flights per year—has already been approved by the FAA.

That the FAA did not consider the public interest in the integrity of our national parks—given the high stakes for our threatened Everglades—prior to its approval of the layout plan for a major commercial airport at HARB is proof positive that Congress needs to act now.

At Homestead, federal property transfer—as a long-term lease or conveyance—has not yet occurred, and so an important opportunity exists for the federal government and its agencies to bridge public expectations that indeed, as President Clinton recently stated, there is no line or division between protection of our natural resources and our economic future.

S. 268 is a good start. The final bill should provide clear responsibility and authority for the US Department of Interior ("DOI"), and not the Federal Aviation Administration ("FAA"), to provide analyses—for the benefit of all Americans—exactly what constitutes noise impacts to national parks from aircraft overflights.

The standard model of the Federal Aviation Administration ("FAA") to measure noise impacts from aircraft overflight provides an average value over a twenty-four hour period. The FAA model will not protect our national parks. Instead, the noise model developed by the US Department of Interior ("DOI"), providing percent time audible values should be authorized in order to provide a location specific, case-by-case basis incorporating the unique features and needs of each national park.

We offer the following logic to address noise issues from aircraft overflights related to HARB, in the hope our recommendations can contribute to your deliberations.

Airplanes have been the primary source of noise disruption at national parks; over 25% of the country's (non-Alaskan) parks report impacts from aircraft operations and rank mechanical noise, primarily from aircraft, as one of their top three management concerns, according to the National Park Service ("NPS") 1995 "Report on Effects of Aircraft Overflights on the National Park System" ("NPS Report"). The NPS Report states that park visitors value natural quiet almost as much as natural scenery in visiting national parks. NPS defines natural quiet as the "ability to hear clearly the delicate and quieter intermittent sounds of nature, the ability to experience interludes of extreme quiet for their own sake, and the opportunity to do so for extended periods of time." NPS Report at 78.

The NPS Report recognized that the traditional method of analyzing noise impacts by averaging day-night sound levels (or DNL) is inappropriate for protecting natural quiet in national parks. Such averaging masks sound level peaks and does not consider at all lower noise levels which intrude upon park visitors. DNL con-

tours were meant to be used by the FAA to mitigate impacts on residences, not to protect natural quiet at national parks. Rather, to protect natural quiet, the NPS Report determined that the percentage of time that aircraft are audible, i.e., "percent time audible," is the most appropriate unit of measurement. Percent time audible refers to the percentage of each hour of each day that mechanical noise, such as from aircraft, is detectable to the human ear. NPS Report at 147-149 and 84-85.

The NPS Report discusses the recent development of the National Park Service Overflight Decision Support System ("NODSS"), a tool which indicates noise levels in a national park resulting from overflights. NODSS is a computer model, which like other, more traditional, aircraft noise models, generates noise level information based upon inputs of flight projections by number, type, altitude, time of operation, terrain features, and flight track. NODSS differs, though, from other models by greatly expanding the spatial area over which noise levels are depicted and by accurately detecting much lower levels of noise over shorter periods of time. The NPS is currently using NODSS to evaluate the effectiveness of FAA restrictions on overflights at Grand Canyon National Park.

Importantly, NODSS is capable of predicting the noise levels in national parks that will result from a new airport, such as at Homestead, and evaluating the efficacy of various management scenarios that might reduce those levels. For such predictive purposes, NPS employs a unit of measurement, Leq 1 hr, which indicates the amount of noise per hour one can expect to hear from aircraft above ambient noise levels at the park. This unit of measurement, along with field surveys, has allowed NPS to construct dose-response relationships which indicate levels of annoyance and interference with natural quiet to park visitors due to varying levels of sound intrusions.

We understand that, although the FAA continues to have disagreements with the NPS over what noise standards to apply to national parks, the agency does not dispute the need for some measure apart from DNL for noise regulation in national parks and that most, if not all, of FAA's concerns with the NODSS model have to do with interpretation of the noise level information it generates and not with its value as an analytical tool.

The NPS recognized in its report that aircraft noise can adversely affect wildlife. Observed effects include decreased foraging efficiency, abandonment of habitat, disrupted nesting and reproductive behavior, and increased mortality rates of young. In the case of brown pelicans, a species residing in BNP—with a colony located beneath HARB's departure flight path, the NPS Report states that scientists have concluded that overflights "can contribute to dramatic reductions in survivorship of young and in overall productivity of a nesting colony." NPS Report at 115. Overflights are also believed to be responsible for nest abandonment and reduced foraging efficiency of bald eagles, a species which has nested in recent years in BNP under the projected holding pattern flight path for HARB. NPS Report at 115 and 126. Migratory birds, which frequently stopover in south Florida, are also thought to be susceptible to overflights, which may disrupt their foraging efficiency and, as a result, potentially compromise their ability to survive migrations. NPS Report at 124.

It is believed that overflights affect animals by inducing stress; the louder and more frequent the overflights the more pronounced the stress. Chronic stress is believed to be harmful to the health, growth, and reproductive fitness of certain animals. Animals often respond to aircraft noise by relocating to quieter environments—in other words, aircraft noise degrades, and even permanently eliminates, habitat. Destruction of habitat by noise is believed to be especially damaging for endangered or threatened species, which are often threatened precisely because of limited habitat availability. Wood storks, which forage in the Model Lands beneath the projected holding patterns of aircraft arriving at HARB, are suspected to abandon habitat in response to overflights. NPS Report at 118. Studies in Florida have demonstrated that overflights can disrupt wading bird behavior during the breeding season. NPS Report at 121. Such overflight impacts on habitat and reproductive performance may decrease population levels. At the Key West National Wildlife Refuge, managers suspect that the only known colony of magnificent frigatebirds in the United States is declining due to frequent overflights. NPS Report at 108.

In light of the NPS Report, the development of the NODSS model, and the gaps in the Air Force's 1994 EIS for the Homestead Air Reserve Base, the following steps are needed to understand the noise impacts we can expect from a converted HARB and how such impacts can be mitigated. Provisions specific to preservation of wildlife habitat impacted by noise from aircraft have been addressed by Sierra Club Miami Group, although not in this document.

STEP #1

The NPS shall determine acceptable noise levels for BNP and ENP that protect natural quiet in national parks. The NPS has developed tools that enable identification of locations sensitive to overflights and believes that acceptable noise levels must be developed on a case-by-case basis incorporating the unique features of each individual park.

STEP #2

Using the NODSS system, the NPS shall determine the noise levels in Leq 1 hr and percent time audible to be expected in BNP and ENP as a result of a redeveloped HARB. This analysis should determine what the impacts of a fully utilized airport could be on BNP and ENP. It should be assumed that airspace over the parks will be used and that increased flight corridors will increase the amount of park area affected. This analysis should show future sound exposure levels, patterns, and sources. To run the model, field measurements will need to be conducted first to determine ambient sound levels in the parks.

STEP #3

The NPS shall determine if the noise generated by the scenarios described in Step #1 exceed the acceptable noise levels for BNP and ENP determined in Step #2.

STEP #4

If acceptable noise levels are exceeded, the NPS and FAA shall determine what operational or infrastructure restrictions will meet the acceptable noise levels of ENP and BNP determined in Step #2. Part of this determination must be to determine the scope of a commercial airport, if any, that can protect natural quiet at the two neighboring national parks.

Possible mitigation measures include operational limits, infrastructure limits, creation of flight free zones (such as set for Grand Canyon National Park), adjusting traffic routes, limiting hours of operations, setting minimum altitude restrictions, and prohibiting use of certain aircraft types. Other potential mitigation measures include deployment of quieter aircraft, adjustment of aircraft speed, power, and propeller pitch, and elimination of blade slap on helicopters. Because ENP and BNP are flat, natural topographic features cannot be used to protect visitors from the impacts of aircraft.

STEP #5

The NPS and FAA shall develop conditions for the transfer of HARB that will incorporate the usage and noise impact mitigation measures developed in Step #4 and prohibit any use of to the contrary or to otherwise violate the acceptable noise levels developed in Step #2.

In your deliberation, we hope you will be guided by the knowledge that the American people have already paid a great price to protect our national parks.

We treasure the diversity of these natural resources whose health, throughout the nation, is an indicator of our success at managing the impacts of science, commerce, and infrastructure not just on wildlife, but on people too. It is hard for us today, as it was for our forefathers, to anticipate or measure these impacts against the immensity of our western wilderness. For perspective, look to places like South Florida, where the pressure of population severely tests the integrity of our public lands.

Homestead Air Reserve Base development will have over 240,000 flights per year, adjacent to the most threatened national parks in the nation. This level of operation has been approved by the Federal Aviation Administration, through an airport layout plan submitted by Dade County, and the development will be initiated by the transfer of federal property.

Thank you for the opportunity to comment on this matter.

PREPARED STATEMENT OF MARK VAN SOESTBERGEN, HOLBROOK TRAVEL, INC.,
GAINESVILLE, FL

PROLOGUE

Dear Members of the Committee: Let me begin by commending all of you for your efforts in coordinating an approach in what surely is a complex, dynamic and sensitive issue.

The purpose of this comment is to introduce Lighter Than Air (LTA) craft as an alternative to fixed wing and rotor craft in aerial tourism.

We would like the committee to address LTA and work it into the ruling. This document will offer a list of operational descriptions as well as economic and environmental arguments.

RATIONALE

A key point is that LTA are physically bigger than fixed wing and rotor craft, and also slower. LTA are not compatible with airplanes and helicopters when confined to the same flight corridors. LTA need their own space.

In return LTA offer a large payload for very little fuel consumption. LTA are also very quiet, and extremely safe.

PHYSICAL DESCRIPTIONS

LTA are basically Zeppelin type motorized balloons. These days LTA are filled with Helium, an inert and harmless gas, found inside "Birthday Balloons." It is a different gas from Hydrogen, cause of the burning Hindenburg.

LTA do not need thrust to stay aloft. The engines are used only to propel the balloon around, and are considerably smaller, and thus less noisy.

Helicopters need 100% power to hover, but airships don't and reduce the amount of fuel consumed, power needed, noise and vibration emanated. Airships have large quiet cabins with excellent view, and ample room for people to walk about.

The ride in the gondola (cabin) is very stable, similar to that of a wide body jet, and therefore more pleasurable.

The cabin is on the bottom of the balloon, also known as the envelope. The pressure inside the envelope is very low, about 1/15 psi: equal to a column of water 1 and half inch high. A hole in the envelope the size of a baseball would take hours to effect the airship's performance.

The "envelope" material is a crosswoven super strong paper thin kevlar type, modern synthetic material. For aesthetic purposes it can be shaded any color and it is impervious to ultraviolet light degradation.

THE ENGINES

Were the engines to fail, this would not directly endanger the craft or its occupants. The craft is simply maneuvered down by manipulating the buoyancy manually. The time window for ground support to accommodate the craft and its occupants in this scenario can be stretched to hours. This feature alone greatly enhances the safety of onboard passengers.

The engines are also very quiet.

Currently the most stringent noise pollution standards exist in Germany. Concurrently the largest investment and development efforts in quiet power trains and exhaust systems are found there. ABC contracted the engine and exhaust system to 2 German companies, and the aerodynamic design of airflow into and out of the engine to a NASA contractor.

The result is a noise signature of less than 65dB for a 1000 ft flyover. This easily puts the LTA in the C category of the Methodology to Categorize the Noise Efficiency of Air Tour Aircraft in GCNP.

The A-150, for example has constant speed, reversible 5 bladed propellers installed in ducts. Dividing the blade surface area over a number of blades reduces the per blade air impact. This is one way of reducing the noise created when propellers "chop" through the air to push it.

Thrust is created by manipulating the angle of the blade. Noise in the cabin is limited, conversation carries as in a wide body jet, with the engines perceived as a higher pitched "hummm."

FUEL CONSUMPTION

The fuel consumption of a vehicle gives you an idea of the power required to maintain it aloft, vibration generated, operational costs to keep it running and pollutants added to the atmosphere.

Just pedaling around, a 10 people LTA uses about 15 gallons of fuel an hour. Air pollution is minimal. The airship can literally drift with an air mass, undisturbed by its engines or engine exhaust.

LANDING FACILITIES

Ideally, we would want a flat low wind area for mooring and boarding purposes. Proximity to an access road helps in carrying fuel, crew and passengers. The landing area can be as small as 40000 square meter. Or an area roughly 700 by 700 feet.

LTA frequently operate out of existing airfields, with no disturbance in the normal take off and landing procedures of other aircraft.

To keep fuel consumption and travel time at a minimum, a location 0-10 miles from the "object" would be ideal.

The ideal time aboard is just about 1 hour and a half. Flying space could be a bubble, for example, 20 statute miles across and 2000 feet high. Or some other form that fits alongside with corridors for conventional craft.

Point is that operating close to the attraction is efficient. This may prompt collaboration between Park and operator.

OPERATIONAL THEME

The theme would be "Guided Natural History Tours." A person on board would be there to interpret the Natural, Historical and Cultural attributes of a locale, as well as answer questions. No earmuffs are needed.

This could be National Park personnel, or another individual intimate with the subject. The emphasis throughout is on understanding natural phenomena.

THE A-150

Although the above characteristics hold true for many modern LTA, the craft we are considering is the A-150, manufactured by the American Blimp Corporation out of Hillsboro, Oregon. It received preliminary FAA certification early this July.

The A-150 is equipped with up to date electronics and flight information systems. It is whisper quiet, and designed especially for surveillance and observation purpose.

We strongly feel that LTA can be among the low impact, enviro friendly, type C aircraft that legislation is calling for.

We will gladly cooperate with FAA and NP personnel in noise tests, flight pattern ideas, mooring suggestions and revenue sharing schemes.

I hope we get the chance to prove its worth, and receive special consideration for making a step in the direction of quiet air technology on the manufacturer and air tour operator level.

We understand that the largesse of this LTA lends itself to debate. And in some scenarios this will require a closer look and further discussion. LTA provide significant improvement in ride comfort and air safety, reduced noise levels and air pollution.

Thank you very much for your consideration and time.

QUESTIONS

1. Will there be an office that can field flight related questions for all national Parks?

2. Can your committee separate LTA from rules governing fixed wing and rotor craft in existing rules and legislation?

3. Will operators, such as Holbrook Travel, who have invested in quiet aircraft technology be allowed to enter the market as new players in National Parks where overflight limitations currently exist?

PREPARED STATEMENT OF EDWARD M. BOLEN, PRESIDENT, GENERAL AVIATION MANUFACTURERS ASSOCIATION

The General Aviation Manufacturers Association (GAMA) appreciates the opportunity to submit written testimony to the Senate Committee on Commerce, Science and Transportation regarding S. 268, the National Parks Overflights Act of 1997.

GAMA represents 53 U.S. manufacturers of general aviation aircraft, engines, avionics and other component parts. As a result, GAMA members build many of the aircraft used by commercial sightseeing operators for flights over the national parks.

BROADENING AIRSPACE MANAGEMENT AUTHORITY TO MORE THAN ONE ENTITY

GAMA is greatly concerned about the change in the regulatory philosophy enacted in S. 268 that transfers a degree of control over the airspace above national parks to the Department of the Interior. In 1968, as a result of a mid-air collision between military and civilian aircraft over the Grand Canyon, Congress created the Federal Aviation Agency and gave it authority over domestic airspace.

The FAA was created with the philosophy that the U.S. would have one and only one regulatory authority for all U.S. airspace. The authors of the original FAA Act hoped this philosophy would guarantee a uniform level of safety throughout the country and ensure consistent responsibility for separation of air traffic. Time has shown the merits of this philosophy. Today, the United States has by far the safest, largest, most diverse and integrated air transportation system in the world.

By giving the Department of the Interior the authority to make binding recommendations about the use of airspace over national parks, S. 268 erodes the philosophy of one entity maintaining sole authority over our nation's airspace. It also calls into question where the erosion will end. For example, will the Department of Agriculture request the authority to make binding recommendations about airspace over national forests? Will states or local governments seek to restrict airspace over state-owned or locally-owned property?

The air transportation system is inherently a national system. As such, it should be controlled by the federal government. GAMA believes the Congress was right when it gave one civilian agency the authority over all airspace and that philosophy should continue without erosion.

COULD RESTRICT CITIZEN ACCESS TO THE GRAND CANYON AND OTHER NATIONAL PARKS

There are many ways to enjoy the beauty of our national parks—by land, water or air. Because of physical infirmities, time constraints and other factors, some persons are limited in the manner in which they can view a national park. Nevertheless, all persons should have the opportunity to enjoy the wonders of our national parks in some manner. For many persons, commercial sightseeing operations are the only way they can see our national parks and they should not be denied the opportunity.

TREATS AVIATION NOISE DIFFERENTLY THAN OTHER NOISE

Although other transportation modes and operations generate significant noise, often exceeding that generated by aircraft, S. 268 only addresses aviation. The fact is there are many possible noise sources within national parks, including automobiles, snowmobiles, chain saws, motorcycles, portable power generators and boat motors. Completely eliminating one source may do little or nothing to reduce overall noise levels. Without a comprehensive and accurate study of the noise emissions from all these sources, regulatory control of noise levels seems arbitrary and capricious.

VAGUE DEFINITION OF KEY PROVISIONS

The concept of "natural quiet" is not defined in this legislation or elsewhere. As a result, the concept is entirely subjective, and thus may be impossible to achieve. Manufacturers and operators cannot be expected to meet such a subjective standard.

"Quiet technology" is also not defined. NASA has stated that a quantum leap from current technology is required if we are to produce any measurable aircraft noise reduction through design changes. This is still many years away.

OTHER ISSUES: CAPACITY AND EFFICIENCY

While we recognize the bill's intention is to regulate only commercial air tour operations, we are concerned about the possible impact on other forms of aviation, in particular, general aviation. It has been estimated that the airspace over the nation's national parks constitutes over ten percent of all U.S. domestic airspace. If general aviation aircraft, which are often unpressurized and cannot fly above certain altitudes, were banned from flying in this airspace, flights attempting to travel in the area would necessarily be longer and more circuitous, fuel consumption would be increased and operating costs would be higher. Thus, capacity and efficiency would be degraded.

S. 268, however, does not allow the FAA to "veto" recommendations made by the DOI for reasons related to capacity or efficiency. DOI would be making decisions that could have a vast impact of the entire air transportation system based upon their limited goals and control of only ten percent of the airspace—not the broader

goal of a safe and efficient national air transportation system. This is not a policy that is in the best national interest.

COULD LIMIT THE PROGRESS OF THE ARAC WORKING GROUP

Finally, enactment of this legislation could hinder the progress of the ARAC working group made up of representatives of involved parties including both environmentalists and industry. Because their work continues on a regulatory proposal that will satisfy all involved parties, Congressional action at this time could be harmful to the group's progress.

CONCLUSION

The final authority for all U.S. airspace is, and should remain, the FAA. The FAA alone is technically equipped to balance diverse national needs with the needs of the traveling public.

We thank you for this opportunity to express our comments on S. 268.

WRITTEN TESTIMONY OF THE HUALAPAI INDIAN TRIBE

INTRODUCTION

The Hualapai Indian Tribe requested the opportunity to provide testimony before the Aviation Subcommittee during its hearings on overflights of the national parks held in Washington, DC on July 31, 1997. The Hualapai Indian Tribe believes it is essential that Congress understand the impact of legislation regulating overflights of national parks on tribes with reservations adjacent to national parks. It is the Tribe's understanding that there were no witnesses providing oral testimony to this unique aspect of the problem at the hearing held in Washington, DC on July 31, 1997. However, Indian tribes, including the Hualapai Indian Nation have previously provided testimony and the Hualapai Indian Tribe was invited to provide written testimony to the Senate Subcommittee.

I. Interest of the Hualapai Indian Tribe

Although the Tribe's interests pertain solely to the management of air tours over one park, the Grand Canyon National Park, the Tribe's experience offers lessons for the regulation and management of overflights over all national parks which may have Indian tribal neighbors. In this testimony the Tribe will recount the problem it has experienced with the FAA and offer proposed procedures which should be followed at all national parks.

A. Interest of the Hualapai Tribe in the Rulemakings: The Hualapai Indian Tribe is a federally recognized Indian tribe. The Hualapai Indian Reservation, established by Executive Orders of January 4, 1883 and June 2, 1911 and Public Law 93-560 (December 30, 1974), encompasses one million acres adjacent to the Grand Canyon National Park ("GCNP"), an area almost as large as the GCNP itself. The Hualapai Reservation envelops 108 miles of the 277 miles of the Colorado River that comprise the Grand Canyon, or approximately 40 percent of the Grand Canyon. Because the GCNP and the Hualapai Tribe are adjacent neighbors, the National Park Service's and the Federal Aviation Administration's policies for managing overflight noise or other environmental matters concerning the GCNP will have a direct impact on the Tribe. For this reason, the Tribe has always requested that the agencies involved in managing the GCNP consult with the Tribe on a "government to government" basis to make sure that the Tribe's interests are included in whatever plans are made. This approach coheres with Congress' policy that the federal government work cooperatively with the Indian tribes in and around the Grand Canyon to provide for a unified "protection and interpretation of the Grand Canyon in its entirety". Act of January 3, 1975 (codified at 16 U.S.C. § 228(e)). It also coheres with the trust obligations all federal agencies owe Indian tribes and their lands. See, e.g., *United States v. Mitchell*, 463 U.S. 206 (1983); *Jicarilla Apache Tribe v. Supron Energy Com.*, 728 F.2d 1555, 1563 (10th Cir. 1984), dissenting opinion of J. Seymour adopted as majority en banc opinion, 782 F.2d 855 (10th Cir. 1986).

II. Include Tribal Governments in the Development of Air Tour Management Plans as Cooperating Agencies

The FAA official responsible for the coordination of the public consultation process in the development of the Grand Canyon flight regulations has acknowledged that he did not know he had to include tribes in the consultation process until after he received a copy of a letter the Hualapai Chairman had sent to Secretary Peña on February 26, 1996. Less than two months after that letter was sent, the FAA pub-

lished its Draft Environmental Assessment (April, 1996). During the following 10 months, the Tribe, the BIA and even the Environmental Protection Agency raised concerns about FAA's failure to adequately consult with the Hualapai and other Indian tribes. Both the Tribe and the BIA repeatedly requested the opportunity to participate in the rulemaking process as cooperating agencies. However, in October, 1996 the FAA was still considering both the Tribe's and BIA's request for Cooperating Agency status.

The Tribe believes the Final Rule and Environmental Assessment published by the FAA on December 31, 1996 reflect the inadequacy of the consultation process with the Hualapai Tribe. With a few exceptions, the Final Rule failed to address almost all of the Tribe's concerns. For example, the Tribe and BIA repeatedly raised the concern that the FAA's solution to the overflights of the GCNP would be to push the flights and noise south on to the Reservation. As the attached map* shows, all of the river routes on the west side of the canyon traverse Hualapai Indian Reservation lands. This map shows graphically the negative impact on the Tribe. The Final Rule did not even mention that the Hualapai Tribe was concerned with this routing over Reservation lands. Of course, the Final Rule also failed to mitigate or address this concern.

The Tribe's experience demonstrates that it is essential for Congress to place in the statutory language the mandate to include tribes with lands adjacent to national parks in the development of the air management plans for the park. Because the FAA utilizes this adjacent land to route flights, tribes must be included in the planning process and not be relegated to submitting comments during the public notice stage of the proceedings.

III. Create Flight Free Zones of Indian Lands Unless the Tribe has Consented to the Tours

The National Parks Overflights Act of 1997 provides for the creation of Flight Free Zones, Flight Restrictions and Flight Bans within national parks. This section should be expanded to include Flight Free Zones or air tour bans over adjacent Indian reservations unless the Tribe with jurisdiction over that land has consented to the air tours. Air tour operators argue that they provide opportunities for passengers, some of whom are physically impaired, to enjoy the beauty of the national parks from the air with less impact to the park's environment than those entering by automobile. This emphasizes the role of national parks to both preserve the nation's natural treasures and interpret those treasures for the general public. However, in stark contrast, Indian reservations are not open to the public. They are the lands that remain to the tribes after years of land losses to the federal government. (Indeed, many national parks were created out of aboriginal land holdings of the tribes.) The United States took the last of the lands owned by the tribes into trust to further protect tribal lands from loss and encroachment. Tribes have the sovereign right to exclude others from their lands and to preserve their lands in a pristine state or develop them to meet the needs of their people. Many tribes, like the Hualapai, have done both. They have set aside areas which are sacred, culturally or environmentally sensitive and prohibited development on these lands.

Air tours, by their very nature, violate the privacy of the tribes and in the process, the Tribe's sovereign right to preserve or develop their lands. Unlike a general aviation flight, an air tour's primary purpose is to allow tourists to gaze down upon the land below. Air tours are no different than the bus tours the Hualapai Tribe conducts on the land it has set aside for tourism development known as Grand Canyon West. An air tour is a tour bus with wings. Except, the air tour bus is allowed to trespass over the Tribe's lands without the Tribe's consent and its passengers are further allowed to gaze down onto areas which the Tribe has itself determined must be protected from tribally sponsored tourists and all development. In addition, air tours over the Tribe's economic development activities adversely impacts that activity. Congress would not think twice about reaffirming the right of Tribes to prohibit a stream of tour buses from unilaterally crossing tribal lands to observe sacred ceremonies or disturb protected sanctuaries. Congress should not allow tour buses with wings to unilaterally subvert the tribes' cultural, religious and sovereign rights on tribal lands.

The FAA, like all federal agencies, has a trust obligation to preserve and protect tribal resources. The best procedural approach to ensure the preservation and protection of tribal resources is to ban air tours over those trust resources unless the Tribe consents to such tours.

* Attachment: April 1997 Map.

[Note.—The information referred to has been retained in the subcommittee's file.]

IV. Require the FAA and NPS to Conduct the Necessary Cultural, Social, Economic and Wildlife Studies of Impacts From Overflights on Their Lands Prior to Drafting Any Plan, Rule or Regulation

The Hualapai have a 70% unemployment rate. As a source of employment and tribal revenues, they are promoting economic development around tourism to the Grand Canyon which includes rim tours, river rafting, hiking and short air tours. In 1995, tourism provided the Tribe with \$2.5 million dollars in revenue for use in housing, education, and social programs. In addition, the Tribe has a wildlife conservation program and issues tribal permits, for among other things, Desert Big Horn sheep. Many species in the Grand Canyon, including the spotted bat, willow flycatcher, spotted owl, and peregrine falcon are a dynamic part of the Tribe's oral history. Perhaps most importantly, the River and canyons contain numerous sacred and ceremonial sites of the Hualapai and cultural resources eligible for listing in the National Register of Historic Places.

The Hualapai Tribe repeatedly requested cultural and socioeconomic studies to determine the true impact of the flights on the Tribe's economic development activities, cultural activities and wildlife management programs. Although the final rule noted that the tribes had raised this concern, it categorically states that "DOT and DOI have addressed tribal concerns, including the effects of the rule on economic opportunities of the tribe." However, besides this conclusory sentence there is no other evidence, study, analysis or assessment of the effects of the rule on the economic opportunities of the Tribe. Indeed, although the Final Rule contains extensive discussion of the economic consequences of adopting the rule on both the Park and the air tour industry, there is no benefit/cost comparison on the impact on Hualapai businesses.

Indeed, neither the FAA nor NPS conducted a single on the ground study of the impacts of the Final or Proposed rules on the Hualapai reservation. In comparison, the September 12, 1994, NPS report to Congress on the impact of overflights on parks lists numerous negative impacts from overflights on cultural, historical, structural and natural resources as well as the negative impact on the management of the parks and visitor appreciation. The study does not assess the impact of overflights on non-Park areas of the Grand Canyon. However, if overflights harm the resources of the Park, it is predictable that they will also harm similar resources located in non-Park areas of the Grand Canyon where the FAA is routing overflights.

The FAA should have conducted these studies as part of its Environmental Assessment, but did not. In addition, the National Historic Preservation Act requires an assessment of all traditional cultural properties and properties on or eligible for inclusion in the National Register of Historic Places in what is commonly referred to as a Section 106 study. See 16 U.S.C. § 470f, et seq.; National Register Bulletin No. 38. The regulations provide that a section 106 study should be undertaken early in the planning stages and prior to the federal undertaking. 36 C.F.R. § 800.(c). However, the FAA published the final rule and all of the subsequent proposed rules prior to undertaking the required § 106 study. Indeed, a proposal to conduct the § 106 study is still awaiting FAA review. The study will take at a minimum 6 months. The FAA appears intent on finalizing the rules without regard to possible changes which may be mandated by the § 106 study. The FAA plans on training pilots on the proposed routes in September and, according to a recent court filing, intends to finalize the proposed routes by October.

The Tribe's experience with the FAA provides evidence that Congress should speak directly to the FAA's responsibilities to examine the impact of overflights on tribal trust lands prior to routing any flights over those lands. Accordingly, the Tribe urges Congress to amend the proposed National Parks Overflights Act of 1997 to explicitly include trust lands adjacent to national parks which are also subject to air tour overflights.

The Tribe's experience is that implicit reference to these lands is insufficient. P.L. 100-91 called for the taking of action "necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights." P. L. 100-91, Section (b)(1). Unfortunately, this is the only implicit reference to tribal lands since Hualapai, Havasupai and Navajo lands lie within and around the Grand Canyon. However, protection of the Grand Canyon as a whole from overflights is consistent with the Grand Canyon Enlargement Act of January 3, 1975, wherein Congress called for NPS and tribal cooperation in the unified interpretation and protection of the "entire Grand Canyon, from the mouth of the Paria River to the Grand Wash Cliff, including tributary side canyons and surrounding plateaus." 16 U.S.C. § 228(a) and (e). Nevertheless, the FAA and, indeed, the Secretary, completely failed to incorporate a concern for the "entire Grand Canyon" when they

drafted the Final Rule and proposed a concentration of air tour routes over Hualapai lands.

V. Conclusion

The agencies' inadequate response to the congressional mandate to protect the resources of the Grand Canyon from the adverse impacts of air tour overflights proves that Congress must speak strongly and affirmatively to ensure that the agencies charged with implementing the National Parks Overflights Act of 1997 protect the trust lands of neighboring tribes. The Hualapai Tribe urges the Committee to amend S. 268 to specifically reference adjoining federal trust lands. Federal trust lands should be defined to include lands held in trust by the United States for an Indian or Indian tribe. A separate subsection should be included to provide for Flight Free Zones or air tour bans over adjoining Indian lands unless the Tribe consents to the air tours. Finally, the Act should include a specific mandate to include neighboring tribes in the decisionmaking process and in all studies conducted on the impacts from the overflights.

NPC NOISE POLLUTION CLEARINGHOUSE,
Montpelier, VT, August 13, 1997.

Senate Commerce Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN SENATOR JOHN MCCAIN AND MEMBERS OF THE SENATE COMMERCE COMMITTEE: My name is Les Blomberg, Coordinator of the Noise Pollution Clearinghouse, and I am writing to comment on S. 268, the National Parks Overflights Act sponsored by Senator John McCain.

This legislation is critical to restoring natural quiet destroyed by aviation noise over Grand Canyon National Park as well as other national parks.

There are many reasons why this legislation is necessary, including the effects of noise pollution on wildlife, the degradation of national treasures, and the negative impact of noise pollution on the experience of visitors seeking a natural experience. I will focus on an additional concern: the need to protect our commons.

The opportunity to experience natural quiet has almost disappeared in our country. This has occurred primarily because as a nation we have not fully developed laws or an ethic necessary to protect what is owned in common.

The air into which noise is emitted is a "commons," a public good, or resource, held in common. Since a commons is owned by everyone, the best uses of a commons are those that do not detract from or degrade others' enjoyment and those that use the resource nonconsumptively or sustainably.

Moreover, polluting a commons should never be considered a right. Legal protections are needed to ensure that individuals and businesses do not destroy, degrade, or limit the use or enjoyment of others who wish to use a commons. Only uses that are compatible and do not detract from other uses should be promoted. Efforts should be undertaken to maximize non-competing opportunities for everyone and eliminate those that degrade opportunities.

Our national parks, like our air, are a clear example of a commons that needs to be protected. The experience of many visitors has been degraded by tour overflights that destroy the natural quiet of the parks. These overflights clearly violate the principle that a commons should be used in ways that do not detract from the use and enjoyment of others.

The Noise Pollution Clearinghouse is very supportive of the general approach of Bill 268, but there are some areas in which the bill needs to be strengthened.

One way to improve S. 268 would be to include all units of the National Park System where natural quiet is a significant resource, including national monuments, wild and scenic rivers, national seashores, etc. These, like national parks, deserve the protection due a commons.

In addition, S. 268 should explicitly state that the National Park Service has the responsibility to protect and preserve natural quiet in the lands under its jurisdiction, excluding only those areas where quiet is determined by the park service not to be an important resource and experience, such as in urban parks.

Clearly, the language in the bill should unambiguously state that the FAA must implement measures deemed by the National Park Service as necessary to protect the natural quiet of the parks, monuments, wild and scenic rivers, seashores, etc.

Yet another improvement includes designating all units of the Park Service that are currently without tour overflights "Flight-Free," so that future conflicts can be avoided.

Finally, park fees and regulatory oversight of tour overflights (including reporting of the number of flights, flight paths, noise exposure within the park, number of passengers, areas where the overflight can be heard) should be included in the bill.

Thank you very much for this opportunity to address an important issue. Senate Bill 268 is important if we are to re-establish the natural quiet in our parks.

Sincerely,

LES BLOMBERG.

COMMENTS OF THE NATURE SOUNDS SOCIETY, OAKLAND, CA

The Nature Sounds Society (NSS) strongly supports passage of the National Parks Overflights Act of 1997, S. 268. The following comments will give some background on our organization and our historical interest in the overflight issue. It will present our general position on the importance of natural quiet along with specific points concerning the compatibility of aircraft associated noise and natural quiet within the national parks. Finally it will address section by section specific points and language that we feel can strengthen the bill, S. 268.

INTRODUCTION TO THE NATURE SOUNDS SOCIETY

The NSS is a non-profit international organization devoted to education in the fields of recording and creative use of nature sounds. Our membership consists of scientists, naturalists, wildlife enthusiasts and creative artists in all aspects of sound design including music, radio, film, video, multimedia museums and theatres. Our basic conservation concern for the last fifteen years has been the preservation of quietude in natural areas.

OUR CONNECTION WITH THE OVERFLIGHT ISSUE

All of our members have as an essential part of their work and inspiration, the appreciation of nature sounds. Some of us are simple listeners who go to natural areas to hear these sounds. Others are sound recordists who spend many intense hours recording the calls of wildlife and natural ambiances in a very rigorous pursuit every bit as demanding as wildlife photography and filmmaking. Others use nature sounds as basic material for their creative arts productions—radio producers creating pieces on all aspects of the cultural and natural heritage to the United States and the world; composers who use nature sounds as an integral and basic part of their musical compositions; multimedia developers who present the world not only as pictures but also through sound.

To all of our members the sound dimension and quality of natural environments is paramount. And to all of us, the degradation of this sound environment over the past 20 and 30 years is central and tragic. We feel that this crisis has now reached mammoth proportions. Yet, it has crept up on most of us unaware. In the welter of other serious environmental issues and in the increasing din of cities, our ears have failed us and many of us have become insensitive to the changing nature of our natural areas and to the quality of their sound environments.

GENERAL POINTS

Quietude, or what is referred to in this bill as "natural quiet", is a basic value of wilderness and park areas. Quietude is inherent in the wilderness definition. Without natural quiet, i.e. natural environments uninterrupted by the technological sounds of man, there is no wilderness.

The basic recreational values that people seek in going to park areas include natural quiet. When people speak of "getting away from it all", "having room to think", "peacefulness" or the spiritual quality of "peace of mind," these are only synonyms for the need for natural quiet.

This quiet is not silence. We can have that by locking ourselves away in sound proof rooms or even sound proof homes. It is rather the quiet of nature where the dawn chorus of the birds or the sound of a running creek or river predominates.

OUR BASIC POSITION ON NATURAL QUIET

Our basic position on natural quiet in national parks includes the following points, (in quotes) first summarized in 1996 by the National Parks and Conservation Association:

"Aircraft flying over parks shatter natural quiet, disturb wildlife and degrade natural and historic landscapes."

The recording of nature sounds like photography requires special environmental considerations. Protected habitat with a full range of ecological species is essential. More than this, our profession of nature sound recording requires ambient natural quiet—where the sounds of nature can be heard and recorded, undisturbed by the sounds of human technology.

Our recordists find that these conditions are deteriorating at an alarming rate around the county and indeed around the world. Our members across the country use national parks as primary sites for sounds recording. They report the following:

1. Geometrically increasing air traffic of all kinds in the national parks.
2. Windows of natural quiet i.e. periods when no aircraft interfere with recording have been going down from figures like 45 minutes plus to much smaller windows of 10–12 minutes. These recordings are often made in the same areas year after year.

Some of these recordings have been made in areas that support tour planes, other recordings are made in areas where general commercial air traffic has increased tremendously over the last 10 years.

These are individual reports rather than scientifically documented reports. The source, however, are people who record year after year in the same locations with the same sensitive microphones. In some ways these reports are the best that exist today simply because scientific baseline recording of sound levels in park areas have not been made in most areas of the country.

In my own experience, recording and simply listening in the national parks of California, I have found it almost impossible to experience more than 15 minutes at a time without aircraft sounds being heard. In nature sound recording, this is not just a personally shattering experience, it is one that makes nature sound recording extremely difficult and often impossible.

In my work as Curator of the California Library of Natural Sounds at the Oakland Museum of California, I have found that aircraft noise is inimical to sound recording, making it difficult to record without interruption for more than two minutes at a time in most national parks. I have recorded extensively in the following parks: Pinnacles National Monument, Yosemite National Park, Point Reyes National Seashore, Golden Gate National Recreational Area (GGNRA), Joshua Tree National Park and Mesa Verde National Park. In all of these the maximum recording time without interruption from aircraft between the hours of 4:30 AM and approximately 9 PM, has been about 15 minutes. The average usable recording from this time, has been only 2 minutes. In some parks closer to urban areas like GGNRA and Point Reyes, it is practically impossible to record for more than 2 minutes without the intrusion of aircraft noise, from commercial, personal and tour flight sources.

The recording of nature sounds with sensitive microphones and the pursuit of my profession have made me and my fellow members more sensitive to this noise problem.

Also, we have also given classes and workshops to a wide variety of people who identify natural quiet as a significant reason why they visit and enjoy parks. They also add that their memorable outdoor experiences have been impacted by the problem of air traffic noise.

“The importance of preserving natural quiet is crucial. It is a fundamental resource in national parks and wilderness areas as worthy of protection and preservation as clean water, wildlife, pure air and untouched landscapes.”

Natural quiet is a fundamental resource in national parks. Within any national park and especially within the wilderness areas of national parks, natural quiet is fundamental to the very definition of wilderness as “land untrammelled by the effects of human technology”. Within national park areas natural quiet is the fundamental reason that people in general seek parks and that our members in particular seek parks as places where they can experience the sounds of nature and record them.

“Aircraft noise is fundamentally incompatible with national park values.”

Park values have to do with preserving animal habitat and non-urban recreational values for people who use them. Both of these are incompatible with aircraft noise. In regard to the effects of noise on wildlife, there is growing evidence that wildlife is negatively affected by noise. Hearing is damaged, reducing the ability of wildlife to defend itself against predators or to recognize the opposite sex to reproduce. The sound environment is an important but often unrecognized part of the fitness of a healthy ecosystem.

Park values include the recreational uses of park visitors. For those who spend time in wilderness areas, natural quiet is essential. We believe that without natural quiet, wilderness, itself, does not exist. For sound recordists, a small but growing part of the recreational public, aircraft noise originating from low flying aircraft

such as tour planes, is incompatible with their activities. The larger public parks often represent "getting away from it all", "achieving peace and quiet", "having room to think", and other similar images. All of these phrases imply natural quiet. The external quiet character of an environment is what is sought by individuals wishing to achieve inner quiet and experience the memorable qualities for which national parks were set aside. For this experience as well, natural quiet is an essential element. We awake in the morning to that most fundamental sound of spring and summer, the dawn chorus of birds. We listen to bird song, the sounds of wind in the trees and the sound of water in creeks, rivers and if we are on the coast, the ocean. All of these have the spiritual value of awakening our senses and soothing our souls. All of these sound impressions should be inherent in a national park experience and were, in fact, the very intention of our forefathers who set this land aside.

Thus the existence of natural quiet in special places and our expectation of it being there are both implicitly and explicitly important reasons for limited the noise of aircraft and our seeking of it, is explicitly as well as implicitly important for those who go to national parks. This issue is thus, similar to issues of our time like water and air quality, where we did not know the true dangers until levels had risen almost to the point of no return. We urge this committee to take steps now on the tour overflight issue before the situation gets to the point where it is truly too late.

A COMMENT ON NON-TOUR HIGH ALTITUDE COMMERCIAL AIRCRAFT ACTIVITY IN NATIONAL PARKS

The Nature Sounds Society believes that the problem in national park and wilderness areas goes far beyond low flying tour planes. We are also concerned about aircraft routes of both commercial and military planes. We feel that there are additional problems that must be examined. We hope that this bill, which concentrates on low flying aircraft problems in the national parks will encourage reporting by the Secretary of the Interior that deals comprehensively with all issues of aircraft noise and overflight in the national parks. Many more baseline studies need to be done; consideration of this problem as a basic question of resource management in the parks and in wilderness areas is needed. We commend the U.S. Senate Committee on Commerce, Science and Transportation and Hon. Chairman John McCain for introducing this bill and beginning the dialogue on this most vital national issue.

SPECIFIC POINTS ON S. 268

Section 2—Definitions

Several crucially important terms that are used in the bill should be added to this section:

"Natural quiet"—a specific definition of natural quiet should be included since the bill requires recommendations to restore natural quiet

"Substantial restoration of natural quiet"—the current definition of this composite term should be given here based on its definition in past acts and FAA regulations. I believe that there is currently no universally accepted definition for natural quiet, nor criteria for determining it. A strong and clear definition should be included in this bill.

Section (3)(b)(1)—Submission

This section lays out the order of submission for the Secretary's report to congress (and implies a certain priority of submission). This order is inconsistent with the order in the Findings section (Section (3)(a)(1,2)), where the adverse effect of aircraft overflights is listed as the primary (first) finding.

The order of submitted recommendations should follow the order of the the findings, thus putting resource protection categories B, C, and D before health and safety category, A. Our suggested order would be C, B, D, A. The primary purpose of the bill as we understand it, is the restoration of natural quiet. While the order does not necessarily imply priorities, we feel the first categories should refer to natural quiet and resource protection.

Section (3)(b)(1)(A)

This section refers to the protection of the public health and safety without referring to health effects of noise (both physical and psychological). The section should be rewritten to include these health effects e.g.:

"... to protect public health and safety from adverse impact (including noise) associated with aircraft overflights at any national park."

Section (3)(b)(2)(B)

For the same reasons as stated in the comment on Section (3)(b)(1), the order of categories in Section (3)(b)(2)(B) should be reversed with "substantial restoration of natural quiet" first and health and safety second.

As stated previously the term "substantial restoration of natural quiet" is not defined here or in the definitions. This term, which is central to the bill, should be defined in definitions section. (See the extended comments above under Section 2—Definitions.)

Section (3)(b)(3)(C)—Military and Other Public Operations

In this section, we feel that the exemptions from flight free zones are too broad, i.e. not specific enough and allow substantial exceptions at the discretion of the Secretary and the Administrator, which are a serious threat to natural quiet.

While we understand that there must be language to allow exceptions under emergency situations, we would suggest language that limits further these exceptions as follows:

Military and Other Public Operations—The recommendations may exempt non-commercial general aviation, military and other public operations from proposed flight free zones, flight restrictions, or proposals banning flights within the parks if and only if equivalent alternative non-wilderness areas outside of the national park are not available for the aforementioned purpose.

Section (3)(b)(5)

In this section, if we read this correctly, the establishment of minimum altitudes for planes is left to the Administrator in conjunction with the Secretary. This power is crucial to the intention of the bill to substantially restore natural quiet to national parks. We believe that this establishment of minimum levels should be done jointly by the FAA Administrator and the Secretary of the Interior or at least the criteria for establishment of these minimum altitudes should be clearly stated.

We would like the the language in the bill to read e.g.:

"The Administrator and the Secretary in close conjunction with each other may—
(A) establish minimum flight altitudes . . ."

Secondly, establishing absolute minimum altitudes for all planes rather than just-tour planes will effectively remove any control or concern about high flying planes which we believe should be included in the report and recommendations pursuant to the passage of this bill.

Section (3)(b)(6)—Quiet Aircraft Technology

This section addresses the need to encourage development of quiet technologies for planes that fly over national parks.

It suggests providing economic incentives for this development. We believe that the development of quiet technologies for airplanes that fly over national parks should be additionally mandated by law as well as encouraged by incentives and that a provision of this should be added to the bill.

Section (3)(c)(3)(e)—Report

We feel that the 2 year deadline for reporting should also include a schedule for interim reports on recommendations and studies to both congress and to the public.

ADDITIONAL COMMENTS

HIGH FLYING AIRCRAFT: I.E. THOSE OVER 2000 FEET

Even though this bill is titled The National Parks Aircraft Overflight Bill of 1997, no specific mention of commercial aircraft in the bill. The original National Parks Overflight Act of 1984, included in its study of national park and wilderness areas, the effect of commercial airlines on levels of natural quiet, since these aircraft are a great contributor to noise levels in national parks. Even though S. 284 has no explicit exemption of commercial airline flights from regulations here, several explicit powers under the bill of the Secretary and the Administrator seem to invite/require a maximum altitude designation where noise considerations will apply. This would automatically exempt all higher flying planes, no matter what their contribution to noise. We support explicitly including high flying aircraft in all provisions of this bill including the section (Section (3)(b)(6)) encouraging the use of quiet technologies.

WILDERNESS

Within the body of the bill there is no distinction made between wilderness and non-wilderness areas of the national parks. Since wilderness by legal definition of

the Wilderness Act (see our general comments above) is land that is untrammelled by the technological effects of man, it seems unwise not to include the concept somewhere in the bill. There should definitely be discretion by the Secretary to assign to wilderness areas within national parks a higher level of protection from noise than other national park lands.

SACRED LANDS

Sacred native American lands within national parks, depend for their intrinsic value on qualities which include natural quiet. As in the case of wilderness, the Secretary should have the discretion to assign a higher level of protection from noise to those areas.

TIMELINES—MORATORIUM ON TOUR FLIGHT DEVELOPMENT

Since this bill lays out a timeline for recommendations of at least 2 years before plans are proposed for high priority national parks, and since we can expect the current geometric increase in tour flights to continue in parks that already have those flights and a spread of tour flights to parks that do not currently have them, we support adding a temporary moratorium to the bill to freeze tour flights at current levels in parks that currently have them. We also support a total moratorium on new tour flight development at currently unaffected parks until the recommendations and criteria that the Secretary submits under this bill are established.

Submitted by: Paul Matzner, Chair.

ANGELES CHAPTER—SIERRA CLUB,
Los Angeles, CA, August 14, 1997.

Hon. JOHN MCCAIN, *Chair,*
Commerce, Science and Technology Committee,
Washington, DC.

DEAR SENATOR MCCAIN: The Angeles Chapter of the Sierra Club wishes to support the direction you have taken with S. 268, "The National Parks Overflights Act of 1997". We express our appreciation to you for staying the course. We still are confronted, day after day, with "airway robbery" of the fundamental natural quiet of the Grand Canyon—a critical National Park resource, attribute, and phenomenon in its own right. This diminution of Grand Canyon splendor these past 20 years has been a continuing violation of the law and of a Presidential executive order.

In general we support the written comments of July 31, 1997 by our Southwest staff director, Rob Smith, and the statements made at the hearing by the Grand Canyon Trust and the National Parks and Conservation Association.

We would like here primarily to emphasize and reinforce two or three of the specific "Lessons" in the statement of Rob Smith for the Sierra Club.

"LESSON #6": DEFINING AGENCY AUTHORITY AND PROVIDING DEADLINES WORKS

Of course, except that deadlines resisted and unmet (whether by omission or commission) have in fact been inexplicably tolerated by the last two Administrations, and the problem has been exponentially worsening throughout the last four Administrations, we are therefore in complete consternation that the National Park Service representative at the July 31 hearing should ask that Congress defer action on S. 238 "until the Administration has had an opportunity to issue the NPRM."

The time to "defer" is long gone.

President Clinton told NPS/FAA on Earth Day 1996 that they were to have that NPRM out at the end of 1996. What do we have now, more than half-way through 1997? Nothing! We've only the barest possibility of an effective NPRM being released any time this year, for lack of bold leadership and follow through by the Administration's Executive Branch and by the Department of the Interior. The Park Service should quickly call for its proper role and planning authority for the parks as promulgated by S. 268. (This is nothing really new, anyway, because basically it's what the 1987 law established.)

(We are in no particular shock, however, that the Federal Aviation Administration should want action "deferred". The FAA's mantra throughout the 80's and 90's (except for one brief interval in the late 80's) has been: "Delay, Delay, Delay. Stall, Stall, Stall." Nothing new from that source.)

"LESSON #8": NATURAL QUIET SHOULD BE QUIET

The inadequate, lax National Park Service definition, "restoration of natural quiet of Grand Canyon," is another example of an agency seemingly afraid of its own resources. Immediate past Grand Canyon superintendent Boyd Evison recently disapproved this inadequate, current definition that's been foisted upon Grand Canyon National Park. It is unclear why NPS/DOI are unwilling to step forward and welcome the plain authority to right a wrong definition.

"LESSON #9": IT'S NOT ALL COMMERCIAL AIR TOURS

We would supplement these comments by saying that the "15% of time audible" figure for commercial jet intrusion at Grand Canyon has been amply observed and documented at other parks in the "Golden Circle" such as Bryce and Zion. And incoming FAA Director Jane Garvey told your same committee that air traffic over the U.S. was going to double in less than 20 years. So what does that mean, we're going to 30% of time audible? Neither 15% or 30% is acceptable, and there are relatively painless remedies.

As for the military training jets: White Sands is not the only national park subjected to excessively loud, low and inappropriately intrusive military training aircraft activity.

S. 268 should indeed allow NPS to study and make recommendations for airspace management to mitigate all noise sources.

We appreciate the opportunity to supplement the Committee record.

Most sincerely,

DICK HINGSON,
Conservation Coordinator.

CITIZENS AGAINST NOISE,
Honolulu, HI, July 23, 1997.

Hon. DANIEL K. AKAKA,
*U.S. Senate,
Washington, DC.*

Re: Comments of Citizens Against Noise concerning Senator John McCain's NPS Overflights Bill (S. 268)

DEAR SENATOR AKAKA:

I. PRELUDE: Citizens Against Noise ("CAN") hereby declares complete support for the immediate adoption of the absolute prohibition of all tour aircraft activity over the National Park System in Hawaii. This request follows the filing of a Citizen's Petition, which was submitted to the Federal Aviation Administration ("FAA") on January 24, 1994, by the Earthjustice Legal Defense Fund, Inc., ("ELDF") on behalf of 13 statewide community and environmental groups representing up to 10,000 members across the state of Hawaii. The Citizen's Petition asked for a complete ban of all tour aircraft activity over Hawaii's National Park System, including a no-flight buffer zone around both Haleakala National Park on Maui, and Hawaii Volcanoes National Park on the Big Island of Hawaii. The organizations represented by ELDF who have made this request to restrict National Park Overflights are: Citizens Against Noise, The Tour Aircraft Control Coalition, Sierra Club, Conservation Council for Hawaii, Puna Outdoor Circle, Big Island Rainforest Action Group, Black Sands Beach Property Owners Association, Hawaii's Thousand Friends, Life of the Land, Maui Air Traffic Association, Waialae 'Iki Ridge Parks Beautification Association, 1000 Friends of Kauai, and Hawaii Audubon Society.

II. BACKGROUND: CAN is a grassroots organization of citizens who want a quieter community. Founded in 1970, CAN now speaks for hundreds of members in Hawaii and the mainland United States. There is no other organization like it in the country. Noise hurts everyone. Chronic noise fatigue runs up medical bills, makes it harder to study and learn, makes one irritable with family and neighbors.

Citizens Against Noise teaches what their members' rights and obligations are. We lend sound meters free to our members to help them evaluate noise problems. We teach them how, when, and why to use them. We serve on aircraft noise advisory committees, at the county, state and federal level. We testify at public hearings. We suggest better noise control laws and enforcement methods. CAN is a non-profit organization, incorporated in the State of Hawaii. All donations given to CAN are fully tax-deductible to the extent allowed by law.

III. AIRCRAFT NOISE ISSUES—HAWAII: After nearly two decades of working at the county, state, and federal level, CAN is finally gaining the recognition of many of

our legislators and regulators that the air-tour industry ("flightseeing") has experienced totally uncontrolled growth over our National Parks in Hawaii. These flights continue to severely impact upon the Parks' native endangered wildlife, whose ability to maintain their species may be curtailed by the growth of the industry. The State's 1989 State Helicopter System Plan ("SHSP") failed to adequately address National Park overflights impacts. Although the State Department of Transportation, Airports Division ("DOT-A") recognized that there was a concern about the growth of National Park Overflights, DOT-A consistently claimed any control over such overflights was strictly within the purview of the FAA. Eight years after the original SHSP was presented to the Hawaii State Legislature, we have seen only thousands more flights, and dozens more air-tour companies established to tour Hawaii's National Parks by both fixed-wing and helicopter aircraft. This is precisely why the 13-member Coalition of environmental and community groups have taken the extraordinary step of petitioning their federal government (FAA) for injunctive relief for these National Park Overflights.

IV. HAWAII'S AIR-TOUR TRADE ASSOCIATIONS (HHOA & HATA): The SHSP failed in its mission because of a well-financed, and aggressively-orchestrated lobbying campaign by HHOA, Hawaii's arm of the Helicopter Association International, a trade group whose sole purpose is the promotion of the helicopter industry. HHOA once claimed to represent the majority of the tour helicopter operators in the State of Hawaii. HHOA also filed suit (and effectively settled out of court in 1994) against the DOT-A, claiming the State had no legal right over flight operations anywhere within the State of Hawaii. HHOA stated this was only the jurisdiction of the FAA. A new trade association for the air-tour industry, the Hawaii Air Tour Association ("HATA") has recently replaced HHOA as the primary lobbying group for the industry. The president of HATA was recently appointed to the National Parks Overflights Working Group ("NPOWG") within the Department of the Interior, to represent the concerns of the air-tour industry on the issue of National Parks overflights policies nationwide. No equal representation from the environmental community from the State of Hawaii has been requested by the Department of the Interior for the NPOWG.

V. GROWTH OF INDUSTRY: Persons impacted by helicopter and tour aircraft noise intrusions over our National Park System in Hawaii are understandably upset that the industry is telling our state and federal government (Legislators & FAA) that most of the aviation noise problems in our National Parks have been resolved via "Operator's Agreements" fashioned between the air-tour industry and the National Park Service. In fact, there have been repeated attempts to create industry/National Park agreements which would restrict flights over the most critical native bird habitats, visitors areas, or controlled resources of Hawaii's National Park System. None of these voluntary agreements have ever been successful at restoring 'natural quiet' to our National Park System in Hawaii. Each has been consistently thwarted by lobbying groups for the air-tour industry for one purpose only: The industry does not want any federal regulation of their flight activity to interfere with their right to make a profit. This is wrong, because the National Parks were established in this nation for the use and enjoyment of all citizens and residents to use, free from the intrusion of unnatural and mechanical sound. The noise and flight safety issues created over Hawaii's National Park system have not been resolved by the industry's own "Fly Neighborly Programs" nor "Operator's Agreements". Even had they been successful in curtailing the effects of National Park overflights, the sheer growth of the industry (550% over the past decade) could not have compensated for the tremendous attendant noise impacts over Hawaii's National Parks. There are now nearly 100 tour helicopters flying across the state of Hawaii, flying almost every minute of every daylight hour, seven days a week. No community, no visitor population, no protected National Park resource should be required to bear this burden for the profit of a handful of air-tour operators. Federal legislation is long overdue, and both Senator Akaka's and Senator McCain's National Park Overflights bills for the 105th Congress will begin to address this problem in what we believe to be a rational fashion.

VI. FLIGHTS OVER HAWAII'S NATIONAL PARKS: A finding of the 1989 SHSP was the critical need to establish a limit (or eliminate entirely) flights over Hawaii's National Parks, which have been impacted heavily by tour helicopters and fixed-wing aircraft over the past decade. CAN has, for many years, strongly advocated the creation of "flight-free zones" over all of Hawaii's National Parks, including two of the most visited in the State, Haleakala on Maui, and Hawaii Volcanoes National Park on the Big Island of Hawaii. In addition, CAN is asking for a three-mile no-flight buffer zone around the entire perimeter of all of Hawaii's National Parks, to prevent aircraft from interfering with the enjoyment of visitors to the Parks in all locations, not just the wilderness or backcountry areas.

VII. PRIVATE HELIPORTS: CAN has continued to work for the establishment of regulations limiting private heliports adjacent to National Park System in Hawaii. CAN sees the creation of landing pads for private, commercial aircraft as a tremendous loophole for the industry. If the FAA and DOT-A are successful in creating rules and regulations for tour aircraft which originate and terminate flights from public-use airports, then industry may soon be immune from similar regulations from private heliports. Such has been the case at Grand Canyon, for example, where the majority of tour flights have been growing at these private facilities, rather than from the State (Arizona) run airports. The DOT-A has been unable to safely regulate tour aircraft activity for noise mitigation even within the environs of its own public facilities; there are no controls on the limits of flights or tour operations. There are few controls on "hot refueling", often witnessed by State and Federal regulators, but frequently ignored as a health or safety issue. CAN is concerned that the growing number of tour helicopter operations from private helipads will soon enjoy complete freedom from nearly every type of noise abatement regulation that the State DOT-A tried to establish since the Hawaii SHSP went into effect eight years ago. CAN's proposed aircraft noise mitigation legislation, introduced and repeatedly killed during every legislative session by heavy lobbying from the industry (and even DOT-A), has been designed to quell the cumulative effect of daily flightseeing noise, which continues to disrupt the lives of Hawaii's residents, and offend many visitors to the State of Hawaii, who are seeking the quiet and solitude they once believed Hawaii's National Parks had to offer.

VIII. FEDERAL LEGISLATION: CAN has been successful in organizing the general population to use the power of the environmental vote at election time, since FAA and the State have refused to act on the control of tour aircraft noise. Three pieces of Federal Legislation are currently designed to stem the impacts of the growth of this environmentally-destructive industry. Early in the 105th Congress, Senator Daniel K. Akaka introduced legislation, cosponsored by Senators Inouye (D-HI) and Bill Frist (R-TN), designed to reduce the impact of commercial air tours on the National Park system. Senator Akaka's bill (S. 291) establishes a statutory framework for minimizing the effects of air tour activity on Park units. Senator John McCain (R-AZ) also introduced his version of the National Parks Overflights Bill for 1997 (S. 268) in the 105th, co-sponsored by Bill Frist (R-TN). Sen. McCain's legislation will require the Secretary of the Interior to develop a comprehensive plan to address air-tour problems in the Parks within 120 days. The FAA will be required to advise the Secretary on safety concerns, and to implement the Secretary's recommendations. Hawaii Representative Patsy T. Mink (D-2nd) also reintroduced her House version of NPS overflights legislation (H.R. 1187) for the 105th Congress. The bill identifies National Park lands in the State of Hawaii for airspace regulation, including no-flight zones for several Hawaii National Parks and portions of others.

IX. EPILOGUE: As evidenced by numerous hearings held across the State of Hawaii over the past decade on problems with the air-tour industry, it once appeared that Hawaii's aviation industry might still have the opportunity to control noise and safety issues before federal regulation demanded it. Recent efforts, however, by DOT-A and FAA to sit down with industry and the affected members of the public have been fruitless; such meetings have even been boycotted by members of the industry, claiming that they were subjected to "unfair harassment" by members of the overflown public. CAN also requests that any new federal legislation on National Park Overflights apply industry-wide, not just to one segment of flightseeing operations. Some areas of Hawaii's National Park units are impacted by helicopter tours more than fixed-wing aircraft. For other areas, the reverse is true. Certainly, State airports and private-use heliports where these tour flights originate also deserve special legislative attention and federal regulation, as the increase in aviation activity continues to impact on residential and other land uses adjacent to runways and airport facilities. With the exception of a poorly-enforced Special Federal Aviation Regulation enacted in 1984 (SFAR-71), there are no laws available to Hawaii State residents which would enable regulation of commercial overflights over homes or our National Parks. Citizens Against Noise has tried, in good faith, for over 24 years, to resolve noise and safety concerns directly with the aviation industry, but, unfortunately, to no avail. We hope that Senator McCain and the members of the Senate Committee on Commerce, Science, and Transportation will hear Hawaii's plea, and will respond accordingly to assist our residents and visitors to Hawaii's National Park System in the return of peace and quiet to our most revered of national treasures.

Very Truly Yours,

J.B. STOKES,
President.

CITIZENS AGAINST NOISE,
Honolulu, HI, July 16, 1997.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: I write to you pertaining to the July 29, 1997 hearing for Senator John McCain's S. 268, "National Parks Overflight Act of 1997." Citizens Against Noise of Hawai'i would be very appreciative if you would consider the following points pertaining to Haleakala National Park when preparing your remarks for the Committee on Commerce, Science, and Transportation. Barry Stokes, CAN President, is forwarding you comments pertaining to Hawai'i Volcanos National Park under separate cover.

Maui is home to one of the smallest and most noise-sensitive parks in the park system, Haleakala National Park. Contrary to assertions by the tour helicopter industry, tour operations anywhere near the park seriously degrade its wilderness character.

The only way to mitigate the noise intrusion from tour helicopters currently operating just outside the borders of the park is to establish protected air space around the entire perimeter of the park, and, therefore, above land that is not directly under the jurisdiction of the Park Service. A standoff of 3-miles from the borders of the Park has been suggested as a starting point.

If parks like Haleakala are not to fall through the cracks of legislation such as S. 268, language must be inserted into the legislation that empowers superintendents to protect their parks by restricting activity in air space adjacent to their parks. [The precedent for this is the Transportation Act, §4(f).] In parks such as Haleakala, this is an absolutely critical prospective.

Following is a more detailed description of the problem. Also following is a copy of the "informal agreements" between Haleakala National Park and the Hawaii Air Tour Association, and a point by refutation of these agreements.

Thank you for this opportunity for input.

Respectfully,

DAVID J. LEESE,
Vice President & Maui Board Representative.

POSITION STATEMENT BY CITIZENS AGAINST NOISE, OF HAWAII ON TOUR AVIATION
POLLUTION OF HALEAKALA NATIONAL PARK

Haleakala National Park is affected by the noise pollution of flightseeing helicopters because sound is amplified due to Haleakala's geographic configuration. Additionally, Haleakala is a very small park. As the fourth smallest park in the National Parks system, it deserves special consideration with regard to rules currently being promulgated for flightseeing activities. Haleakala Crater is 8 miles in length, 4 miles at its widest. Tour helicopters anywhere near it mar its normally pristine silence. The most common sightseeing helicopter flight pattern is along the southern border of the park. The park border is largely continuous with the rim of the crater, which averages an evaluation of 9,000'. The crater floor averages 6,500'. Helicopters cruise and hover in concentrated patterns several hundred feet above the crater rim/boundary. A video documentary of the noise pollution created by this activity was recently produced and submitted to Congresswoman Patsy T. Mink.

The noise spill-over effect of the activity adjacent to the park is devastating. The noise intrusion occurs continuously throughout the day, often for sustained periods of up to an hour. The crater area is a large bowl, well above the clouds, that concentrates and amplifies aviation noise. The bulk of Haleakala National Park is in the federal wilderness system. It is also a United Nations International Biosphere Reserve. The noise in it is entirely inconsistent with such designations, as well as patently in conflict with the Congressional intent of the Park Organic Act and the Wilderness Act.

The noise pollution is also inconsistent with §4(f) of the Transportation Act. Federal courts have interpreted §4(f), consistently with its protective purpose, to recognize that impacts on part use arising from activities or adjacent land constitute "use." In those cases, that recognized "use" triggers the legal obligation to avoid the impact altogether if there is any "prudent and feasible alternative." The alternative, in the case of Hawai'i national parks, is wide standoffs.

Haleakala Superintendent Don Reeser is to be congratulated for his success in negotiating (with tour helicopter operators) an informal agreement for the cessation of park overflights. However, direct overflight is not the only issue. The source, of

noise pollution has not been removed by restricting overflight per se. Tour helicopters cruise just outside the border of the Park on a nearly continuous daytime basis. The Superintendents agreement merely moves the source of noise pollution from "above" the park to "beside" the park. With a park as narrow and small as Haleakala, this "adjustment" accomplishes marginal noise reduction and nothing in the way of noise elimination. Silence, and the laws, continue to be violated.

Those concerned with restoration of tranquility to Haleakala National Park are buoyed by President Clinton's Executive Order in 1996, and by legislation currently being considered in Congress. The initiative has been established for the FAA and the NPS to move aggressively toward real reduction and prevention of the adverse effects of aircraft in all national parks. However, half-measures like flight corridors, flight-free times, park-border flights, "quieter" helicopters, etc. will not work for Haleakala. This is so because of its small size. The only way to restore tranquility in the park is to restrict tour helicopter activity around its perimeter. Start with 3 miles. After a year, after some noise tests, judge whether this is adequate. If noise remains a problem move to 5 miles, or whatever it takes. It is within the power, and should be within the will, of the Department of Transportation's FAA to institute such protective measures. FAA does so for the security of military bases. It should also do so to restore tranquility to the nation's parks.

Wide flight pattern stand-offs will be opposed by the aviation industry. However, there are other overriding concerns and values here. We must remind ourselves why the parks and wilderness areas exist, and protect them accordingly. The nation's parks do not exist for profit maximization by an industry which so seriously degrades them.

EXHIBIT A

HALEAKALA NATIONAL PARK (HALE), HAWAII AIR TOUR ASSOCIATION (HATA), TOUR HELICOPTER MANAGEMENT PLAN

From Letter of Agreement between Haleakala National Park and Hawaii Air Tour Association (Maui):

This Tour Helicopter Management Plan ("Plan") and accompanying map. Exhibit B, were prepared by the authorized representatives of Hale and HATA operators, hereinafter referred to as "Operators," as prescribed by the foregoing Agreement ("Agreement") between the parties.

1. **SUPERSEDURE AND EXEMPTIONS.**—No pilot will jeopardize his/her safety, the safety of his/her passengers, or the general public to stay within the parameters outlined in this Plan. The Plan's procedures will be superseded when conditions of safety so dictate. No provision of this shall be interpreted or applied in any way contrary to Federal Aviation Regulations ("FAR's"), including but not limited to SFAR No. 71, "Special Operating Rules for Air Tour Operators in the State of Hawaii."

2. **OVERFLIGHTS.**—There shall be no flights over Hale except as provided in items No. 1 and No. 8.

3. **APPROACH.**—For purposes of reducing helicopter noise levels in Hale, Operators may fly at 500 ft. above ground level (AGL) when within one mile of Hale along the south boundary and Kipahulu area of the park.

4. **SLIDING SANDS TRAIL.**—Operators will maintain at least a two-mile radius distance from Sliding Sands Trail Head located at the Hale Visitor Center parking lot. Puu Alii (8200 ft. MSL) located south of the crater rim, is the reference point used to ensure the two mile standoff.

5. **SOUTH RIM.**—Operators will fly outside the park boundary which is identified by the goat control fence line in the vicinity of the crater rim.

6. **OPERATIONS AT THE "NOTCH."**—The "notch" is that depression in the crater rim, which is approximately 3 miles east of the Sliding Sands Trail Head along the south park boundary at 7,000 ft. MSL. Operators must fly in such a manner that minimizes the noise impact inside the crater as much as possible. Do not come to a hover. Maintain at least 40 knots of indicated airspeed. As circling causes the greatest noise impact, terrain masking techniques will be used for all turns, and all turns will be in the makai direction. A turn should not be initiated until the helicopter is abeam that higher part of the rim which is adjacent to Kapalaoa Cabin, and complete the turn before arrival back at the notch where the helicopter is unmasked by the terrain. A subsequent turn back to Kaupo should be in the makai direction and would complete a figure eight flight path.

7. **KAUPO: GAP FLIGHT CORRIDOR.**—Operators must fly outside the boundary of the park which is identified by the goat control fence.

8. **KIPAHULU.**—In order to reduce noise along the heavily visited Kipahulu District Coast line, Operators may cross (without circling) through the Waimoku falls Cor-

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ridor at 500 feet AGL. The corridor is defined as a zone lying in a southeasterly/northeasterly direction, $\frac{1}{2}$ mile wide, and $\frac{1}{4}$ mile mauka (toward the mountain) and $\frac{1}{4}$ mile makai (toward the ocean) of Waimoku Falls. When weather conditions prevent the use of this corridor, Operators may fly as far makai as necessary to affect a safe crossing.

9. HANAWI NATURAL AREA RESERVE.—This is a 7,500 acre area on the north side of Hale. This area is delineated by the park boundary fence, which is its upslope (or southern) border extending downslope to the 3200 ft. contour and bordered on the east by the Heleleikeoha stream (one mile east of Kuhiwa Valley) and on the west by the Kopilula stream (two miles west of Kuhiwa Valley). Operators should avoid overflights of this area completely. If a flight must be conducted through this airspace, the minimum altitude will be 3,000 feet AGL.

10. HALEMAU'U TRAIL OFFSET.—Operators must maintain 1,500 ft. AGL and fly at least no closer than 1 mile radius from the Halemau'u Trail switch back area.

REFUTATION OF THE AGREEMENTS BETWEEN HALEAKALA NATIONAL PARK AND HAWAII AIR TOUR ASSOCIATION (MAUI)

(1) SUPERSEDURE AND EXEMPTIONS.—This provision leaves the door wide open to pilot interpretation/misinterpretation, and ultimately to disruption of National Park tranquility. However, a legitimate safety issue appears to exist here.

(2) OVERFLIGHTS.—“Overflights” are currently not the problem at Haleakala. Proximity and frequency—thus noise—are the problems. Frequency could be addressed in a number of ways such as hour/daily caps on flights, no-flight days, and no-flight times (i.e., nothing before 10 a.m. and nothing after 3 p.m.). Proximity is addressed below.

(3) APPROACH.—This provision allows pilots to continue to conduct most of same operations they have for the past two years. For noise reduction, a 500' AGL restriction is meaningless in this terrain. This has been documented.

(4) SLIDING SANDS TRAIL.—This agreement assures only that there will be noise reduction at the summit area of the Park. The wilderness will remain polluted.

(5) SOUTH RIM.—Unless there is at least a 3-mile stand-off from the boundary, this provision is meaningless. Documentation of the level of noise pollution allowed by this arrangement is a matter of public record.

(6) OPERATION AT THE “NOTCH”.—This is the most notoriously and heavily polluted area of the Park. The arrangements here are window dressing, accomplishing minimal reductions in intensity and regularity of noise pollution.

(7) KAUPU GAP FLIGHT CORRIDOR.—The same applies here as in No. 5.

(8) KIPAHULU.—This elaborate and (due to weather) usually unworkable agreement should be replaced by a requirement that flights along the Kipahulu District Coastline be conducted well offshore. This could be conducted safely by requiring helicopters which fly this route to be equipped with pontoons.

(9) HANAWI NATURAL, AREA RESERVE.—There is no objection to this agreement.

(10) HALEMAU'U TRAIL OFFSET.—Just as with the south boundary the offset should be a minimum of 3 miles along the entire northern boundary of the Park.

SIERRA CLUB, HAWAII CHAPTER MAUI GROUP,
Kahului, HI, July 23, 1997.

The Hon. DANIEL AKAKA,
Washington, DC.

DEAR SENATOR AKAKA:

SUBJECT: PERSPECTIVES; RE: 7/29/97 HEARING OF S. 268

The following reflects Sierra Club, Maui Group's position on issues pertaining to tour aviation activity in the vicinity of Haleakala National Park on the island of Maui.

The Group hopes that you will bear in mind the perspectives described herein when considering testimony about, or refinement to, S. 268. Without an essential adjustment, the National Park Overflights Act of 1997 will not address the noise pollution problems at Haleakala National Park, a park recently rated by *Consumer Reports* in the top three category in public popularity.

Sierra Club, Maui Group strongly urges you to support incorporation into S. 268 of a provision that gives park superintendents the latitude to request control of air

space within a reasonable lateral distance of the boundaries of their parks. In such a provision lies the solution to the noise pollution problem at Haleakala.

Respectfully,

DAVID J. LEESE,
Chair.

SIERRA CLUB, HAWAII CHAPTER MAUI GROUP,
Kahului, HI, July 23, 1997.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN:

SUBJECT: AVIATION NOISE POLLUTION OF THE HALEAKALA NATIONAL PARK WILDERNESS

The Sierra Club, Maui Group salutes your effort to restore peace to our National Parks.

However, we wish to draw attention to the fact that even if S. 268 is enacted, the problem at Haleakala National Park (HNP), on the island of Maui, would fail to be addressed.

This is because the park is so small. Its wilderness area is only about about 4 miles wide and 8 miles long. Tour helicopter activity anywhere near the park has a serious impact. Currently tour helicopters do not fly over the park; they fly just outside its boundaries. With a park so small there is no difference between over-flight and boundary-flight. If S. 268 remains focused on "overflight," the problem at Haleakala will not be addressed.

As the State of Hawaii bears the greatest proportional burden of flightseeing operations nationwide (nearly 50%), as it is home to the fourth smallest national park in the nation, and as Hawaii's national parks are very popular destinations, we submit that in your legislation a special case needs to be made of HNP, and other popular small parks.

This could be accomplished by inserting language into S. 268 which would empower park superintendents to request that the FAA institute degrees of "controlled air space" adjacent to small, or particularly noise-sensitive, national parks. In the case of Haleakala, a 3-5 mile standoff from the boundaries of the park would be required to restore quiet.

Following is a more detailed description of the problem at HNP.* I hope it will provide you and your staff a better understanding of what we confront here, and how you can help.

Respectfully,

DAVID J. LEESE,
Chair.



*Note: The information referred to appears on page 18.

